



AGENDA

Consolidated Regular Meeting

City Council Chamber - 1243 National City
Boulevard, National City, CA

Ron Morrison, Mayor
Luz Molina, Vice-Mayor
Marcus Bush, Councilmember
Jose Rodriguez, Councilmember
Ditas Yamane, Councilmember

Ben Martinez, Interim City Manager
Barry J. Schultz, City Attorney
Shelley Chapel, MMC, City Clerk
R. Mitchel Beauchamp, City Treasurer

The City Council also sits as the City of National City Community Development Commission, Housing Authority, Joint Powers Financing Authority, and Successor Agency to the Community Development Commission as the National City Redevelopment Agency

Thank you for participating in local government and the City of National City Council Meetings.

Meetings: Regular City Council Meetings are held on the first and third Tuesday of the month at 6:00 p.m. Special Closed Session Meetings and Workshops may be same day, the start time is based on needs. Check Special Agendas for times.

Location: Regular City Council Meetings are held in the Council Chamber located at City Hall, 1243 National City Boulevard, National City, CA 91950, the meetings are open to the public.

Agendas and Material: [Agendas and Agenda Packet](#) for items listed are available on the City website, and distributed to the City Council no less than 72 hours before the City Council Meeting. Sign up for [E-Notifications](#) to receive alerts when items are posted.

Public Participation: Encouraged in a number of ways as described below. Members of the public may attend the City Council Meeting in person, watch the City Council Meeting via [live](#) web stream, or participate remotely via Zoom. [Recording of Meetings](#) are archived and available for viewing on the City's website.

Public Comment: Persons wishing to address the City Council on matters not on the agenda may do so under Public Comments. Those wishing to speak on items on the agenda may do so when the item is being considered. Please submit a Speaker's Slip to the City Clerk before the meeting or immediately following the announcement of the item. All comments will be limited up to three (3) minutes. The Presiding Officer shall have the authority to reduce the time allotted to accommodate for a large number of speakers. *(City Council Policy 104)*

EFFECTIVE JANUARY 1, 2023

All Contributions to Candidates and Current Elected Officials are required to self-report a Declaration of Campaign Contribution to a Councilmember of more than \$250 within the past year (effective Jan 1, 2023). This report may be included on the Public Comment Speaker Slip to be completed prior to the City Council Meeting.

If you wish to submit a written comment [email](#) to the City Clerk's Office at least 2 hours before the City Council Meeting to allow time for distribution to the City Council.

Spanish Interpretation Services: Spanish Interpretation Services are available; please contact the City Clerk before the start of the meeting for assistance.

American Disabilities Act Title II: In compliance with the American Disabilities Act of 1990, persons with a disability may request an agenda in appropriate alternative formats as required by Title II. Any person with a disability who requires a modification or accommodation to participate in a meeting should direct such request to the City Clerk's Office (619) 336-4228 at least 24 hours in advance of the meeting.



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Gracias por participar en las reuniones del gobierno local y del Consejo de la Ciudad de National City.

Reuniones: Las reuniones regulares del Consejo Municipal se llevan a cabo el primer y tercer martes del mes a las 6:00 p.m. La reunión especial de sesión privada y los talleres pueden ser el mismo día, la hora de inicio se basa en las necesidades. Consulte las agendas especiales para conocer los horarios.

Ubicación: Las reuniones regulares del Concejo Municipal se llevan a cabo en la Cámara del Consejo ubicada en el Ayuntamiento, 1243 National City Boulevard, National City, CA 91950, las reuniones están abiertas al público.

Agendas y Material: Las Agendas y el Paquete de Agenda para los temas enumerados están disponibles en el sitio web de la Ciudad y se distribuyen al Concejo Municipal no menos de 72 horas antes de la Reunión del Concejo Municipal. Regístrese para recibir notificaciones electrónicas cuando se publiquen artículos.

Participación pública: Se fomenta de varias maneras como se describe a continuación. Los miembros del público pueden asistir a la Reunión del Concejo Municipal en persona, ver la Reunión del Concejo Municipal a través de la transmisión web en vivo o participar de forma remota a través de Zoom. Las grabaciones de las reuniones están archivadas y disponibles para su visualización en el sitio web de la Ciudad.

Comentario Público: Las personas que deseen dirigirse al Concejo Municipal sobre asuntos que no están en la agenda pueden hacerlo bajo Comentarios públicos. Quienes deseen hacer uso de la palabra sobre los temas del programa podrán hacerlo cuando se esté examinando el tema. Por favor, envíe una solicitud del orador al Secretario de la Ciudad antes de la reunión o inmediatamente después del anuncio del artículo. Todos los comentarios estarán limitados a tres (3) minutos. El Presidente tendrá la autoridad para reducir el tiempo asignado para dar cabida a un gran número de oradores. (Política del Concejo Municipal 104)

Si desea enviar comentarios por escrito, envíe un correo electrónico a la Oficina del Secretario de la Ciudad al menos 2 horas antes de la Reunión del Concejo Municipal para dar tiempo a la distribución al Consejo Municipal.

A PARTIR DEL 1 DE ENERO DE 2023

Todas las contribuciones a los candidatos y funcionarios electos actuales deben autoinformar una Declaración de contribución de campaña a un concejal de más de \$ 250 en el último año (a partir del 1 de enero de 2023). Este informe puede incluirse en el Recibo del orador de comentarios públicos que se completará antes de la reunión del Concejo Municipal

Servicios de interpretación en español: Los servicios de interpretación en español están disponibles, comuníquese con el Secretario de la Ciudad antes del inicio de la reunión para obtener ayuda.

Título II de la Ley de Discapacidades Americanas: En cumplimiento con la Ley de Discapacidades Americanas de 1990, las personas con discapacidad pueden solicitar una agenda en formatos alternativos apropiados según lo requerido por el Título II. Cualquier persona con una discapacidad que requiera un modificación o adaptación para participar en una reunión debe dirigir dicha solicitud a la Oficina del Secretario de la Ciudad (619) 336-4228 al menos 24 horas antes de la reunión.



AGENDA

Consolidated Regular Meeting

Tuesday, November 21, 2023, 6:00 p.m.
City Council Chamber - 1243 National City Boulevard
National City, CA

Pages

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE TO THE FLAG

4. INVOCATION

5. PUBLIC COMMENT

In accordance with State law, an item not scheduled on the agenda may be brought forward by the general public for comment; however, the City Council will not be able to discuss or take action on any issue not included on the agenda. Speakers will have up to three (3) minutes.

6. PROCLAMATIONS AND RECOGNITION

6.1 Native American Heritage Month

5

7. PRESENTATION (Limited to Five (5) Minutes each)

7.1 Sweetwater Authority - We're Here to Serve

6

8. REGIONAL BOARDS AND COMMITTEE REPORTS (Limited to Five (5) Minutes each)

9. CONSENT CALENDAR

The Consent Calendar may be enacted in one motion by the City Council with a Roll Call Vote without discussion unless a Councilmember, a member of the Public, or the City Manager requests an item be removed for discussion. Items removed from the Consent Calendar will be considered immediately following the adoption of the Calendar.

- 9.1 Approval of Reading by Title Only and Waiver of Reading in Full of Ordinance on this Agenda
- 9.2 Approval of City Council Meeting Minutes. 23
Recommendation:
Approve and file.
- 9.3 Affordable Housing Density Bonus Agreement for 200 E 31st Street 35
Recommendation:
Adopt the Resolution Entitled “Resolution of the City Council of the City of National City, California, Approving an Affordable Housing Density Bonus Agreement and Related Documents with KD Cove, LLC, a California Limited Liability Company, and Restricting the Rent and Occupancy of Five Units to Very-Low-Income Households in Exchange for One Incentive Pursuant to California Government Code Sections 65915–65918 for the Development of 92 Housing Units Located at 200 E 31st Street in National City.”
- 9.4 Investment Report for the Quarter Ended September 30, 2023. 72
Recommendation:
Accept and File the Investment Report for the Quarter Ended September 30, 2023.
- 9.5 Organized Retail Theft Prevention Grant Program Award of \$935,100 to the City of National City for the Period of October 1, 2023 to June 1, 2027. 102
Recommendation:
Adopt a Resolution entitled, “Resolution of the City Council of the City of National City, California, 1) Authorizing the Acceptance of Organized Retail Theft Prevention Grant Program Funds in the Amount of \$935,100 from the Board of State and Community Corrections, 2) Authorizing the Establishment of an Appropriation and Corresponding Revenue Budget in the Amount of \$935,100, 3) Waiving the Formal Bid Process Pursuant to National City Municipal Code Section 2.60.220, and 4) Authorizing the City Manager to Enter into an Agreement with Flock Safety to Implement an Automated License Plate Reader Program.”

- 9.6 Second Amendments to On-Call Consultant Agreements for City’s Capital Improvement Program (CIP) 157

Recommendation:

Adopt a Resolution Entitled, “Resolution of the City Council of the City of National City, California, Authorizing the Mayor to Execute Second Amendments to the Agreements by One Year and Increase the Not-to-Exceed Amounts by \$1,000,000 each for a Total Not-to-Exceed Amount of \$4,000,000 each.” With the following On-Call Consultants: A) HDR Engineering, Inc.; B) Kimley-Horn and Associates, Inc.; C) KTU&A; D) NV5, Inc.; and E) WSP USA Inc..”

- 9.7 Temporary Use Permit – Kimball Park Winter Carnival hosted by Paul Maurer Shows at Kimball Park from Thursday, February 29, 2024 through Sunday, March 3, 2024 with No Waiver of Fees. 175

Recommendation:

Approve the Application for a Temporary Use Permit Subject to Compliance with all Conditions of Approval with No Waiver of Fees and in Accordance with City Council Policy No. 802.

10. CONTINUED PUBLIC HEARING

The following item(s) have been advertised as public hearing(s) as required by law.

- 10.1 Introduction and First Reading of the Ordinance Establishing Speed Limits Based on Engineering and Traffic Surveys 209

Recommendation:

Introduce the Ordinance by First Reading, entitled, “Ordinance of the City Council of the City of National City, California, Establishing Speed Limits on Various Streets Based on Engineering and Traffic Surveys and Authorizing the Director of Public Works to Post Speed Limit Signs Consistent with the Recommendations of the Engineering and Traffic Surveys.”

11. PUBLIC HEARING

The following item(s) have been advertised as public hearing(s) as required by law.

- 11.1 Second Reading and Adoption of Ordinances Amending National City Municipal Code Section 10.70 – Police Regulated Business Regulations and 10.79 – Massage Establishments.

236

Recommendation:

Second Reading and Adoption of the Ordinances Entitled:

“An Ordinance of the City Council of the City of National City, California, Amending Chapter 10.70 Police Regulated Business Regulations of the National City Municipal Code; and

An Ordinance of the City Council of the City of National, California, Amending Chapter 10.79 Massage Establishments Regulations of the National City Municipal Code.”

12. STAFF REPORTS

- 12.1 Presentation on Transitioning from a General Law City to a Charter City

278

Recommendation:

Provide staff direction by choosing one of the following options:

1. Take No Action and Table the Issue.
2. Direct Staff to take Steps to Prepare the City Council to Draft a City Charter.
3. Direct Staff to Initiate the Process for Soliciting Applications for Appointment to a City Charter Advisory Committee.
4. Direct Staff to take the Necessary Steps to Prepare for the Election of a 15-Member Charter Commission.

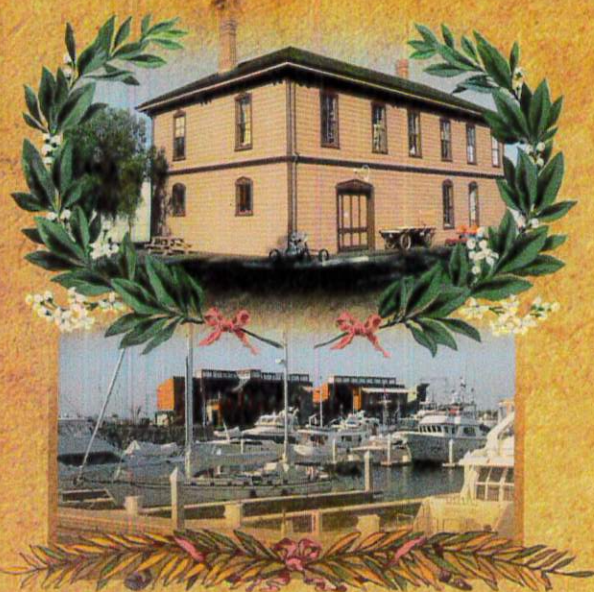
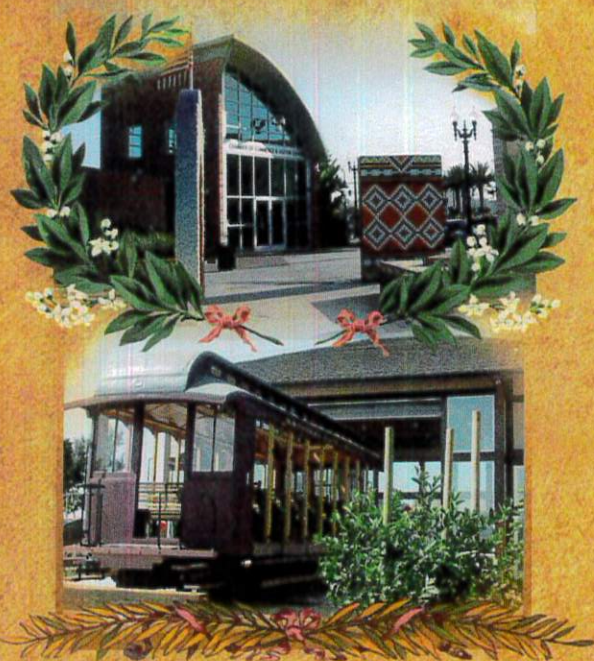
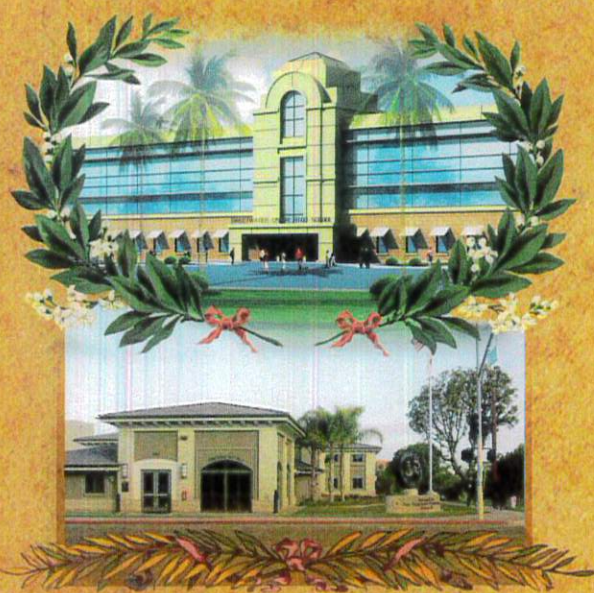
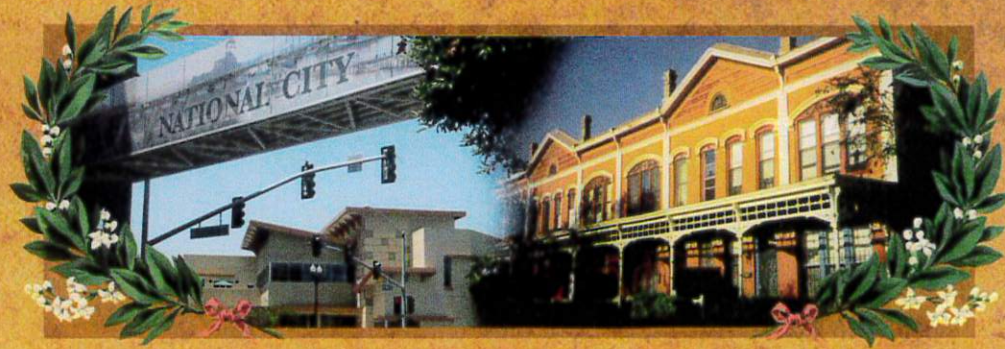
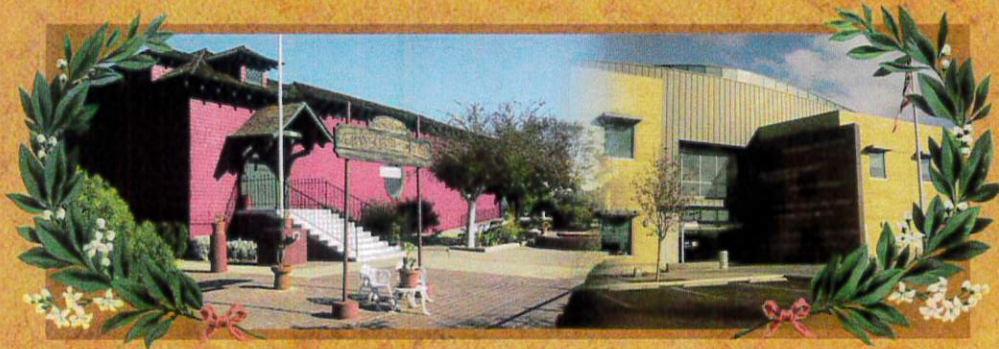
13. CITY MANAGER'S REPORT

14. ELECTED OFFICIALS REPORT

15. CITY ATTORNEY REPORT

16. ADJOURNMENT

Regular Meeting of the City Council of the City of National City - Tuesday, December 5, 2023 - 6:00 p.m. - Council Chambers - National City, California.



Proclamation



Whereas; What started at the turn of the century as an effort to gain a day of recognition for the significant contributions the first Americans made to the establishment and growth of the U.S. has resulted in a whole month being designated for that purpose; and

Whereas; In 1990 President George H. W. Bush approved a joint resolution designating November 1990 "National American Indian Heritage Month." Similar proclamations, under variants on the name (including "Native American Heritage Month" and "National American Indian and Alaska Native Heritage Month") have been issued each year since 1994; and


Whereas; National Native American Heritage Month is celebrated each year in November. It is a time to celebrate the traditions, languages and stories of Native American, Alaska Native communities and ensure their rich histories and contributions continue to thrive with each passing generation. This November and every month, we celebrate the culture and heritage of these remarkable Americans who deeply enrich the quality and character of our Nation. We celebrate the remarkable diversity of American Indian and Alaska Native cultures and peoples; and

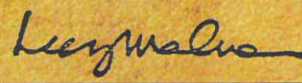
Whereas; This year's theme at the Department of the Interior is 'Celebrating Tribal Sovereignty and Identity'. Tribal sovereignty ensures that any decisions about Tribes with regard to their property and citizens are made with their participation and consent with respect to their unique identify. The federal trust responsibility is a legal obligation under which the United States "has charged itself with moral obligations of the highest responsibility and trust" toward Indian tribes; and

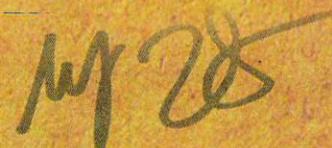
Whereas: The 18 tribes that are within San Diego County are an integral and vital part of what makes up the fabric of our multicultural community. **NOW THEREFORE,**

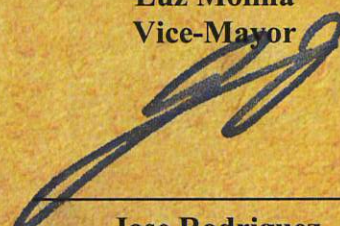
BE IT PROCLAIMED, I, Ron Morrison as Mayor, by virtue of the authority vested in me by the City of National City, do hereby set my hand and affix the official seal and together with the City Council do hereby proclaim the month of November, 2023 as:


NATIVE AMERICAN HERITAGE MONTH


Ron Morrison
MAYOR


Luz Molina
Vice-Mayor


Marcus Bush
Councilmember


Jose Rodriguez
Councilmember


Ditas Yamane
Councilmember





November 21, 2023

Sweetwater Authority: We're Here to Serve

Rich Stevenson, Director of Finance

Board of Directors

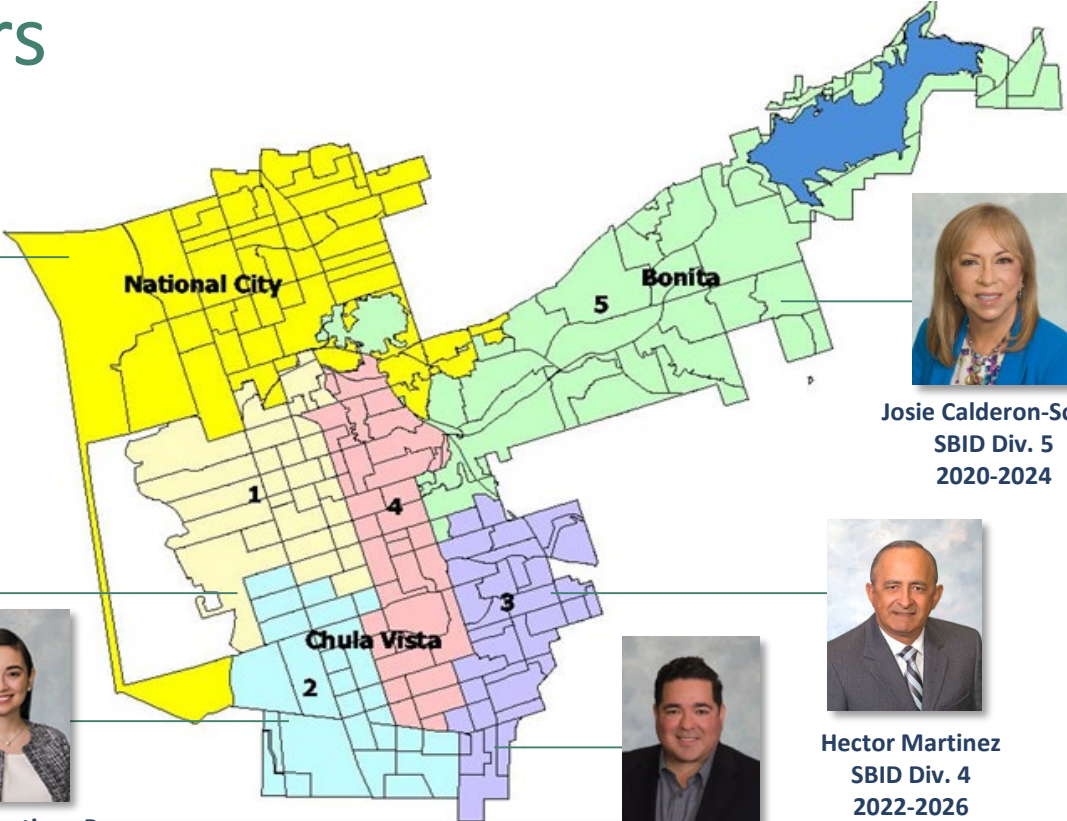


Ron Morrison
2023-2026

National City



Ditas Yamane
2023-2026



Josie Calderon-Scott
SBID Div. 5
2020-2024



Steve Castaneda
SBID Div. 1
2022-2026



Paulina Martinez-Perez
SBID Div. 2
2020-2024



Manny Delgado
SBID Div. 3
2023-2024



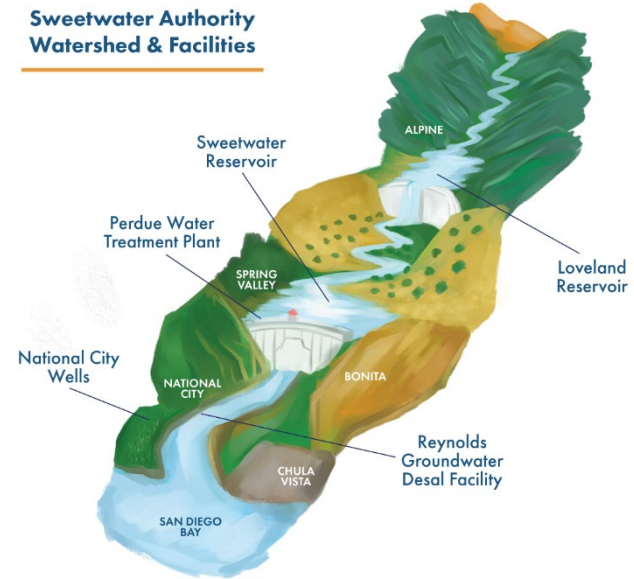
Hector Martinez
SBID Div. 4
2022-2026



About Us

- Safe, reliable water since 1977
- 36 square mile service area
- Approx. 200,000 customers
- 33,000+ service connections
- 2 dams, 2 reservoirs, 20 storage tanks and 17 pump stations
- Surface water treatment, groundwater desalination, freshwater wells and imported water

Sweetwater Authority Watershed & Facilities



Securing Affordable Water Supply

Source	Wet Year Supply	Dry Year Supply
National City Wells (Fixed) \$	10%	10%
Desalination (Fixed) \$\$\$	40%	40%
Surface Water (Variable) \$\$	40%	0%
Imported (SDCWA-Variable) \$\$\$\$\$\$	0%	40%

Insulating Against Future Droughts

Improvements/repairs/rehabilitation at dams

- Sweetwater Dam = \$25 million
- Loveland Dam = \$10 million



Partnering With Our Community

- Educational Partnerships
 - Hydro Station (with CVESD and Otay Water District)
 - Unique learning experience that teaches students about careers and opportunities in the water industry
 - Olivewood Gardens
 - Official Water Provider, supporting efforts that promote the safety, value, and efficiency of tap water
 - The Water Conservation Garden
 - Educational resource for residents and school programs
- Community Engagement
 - Community events
 - Partnerships with local nonprofits
 - Bonita Museum & Cultural Center, Living Coast Discovery Center



Hydro Station at Reynolds Desalination Facility



Pipeline display at Bonita Museum



Sweetwater Authority Water Rates

- The Authority is funded through customer water use rates (no property taxes)
- Proposition 218 Requirements to proportion costs to customers
- Only collect revenue for what is necessary to provide services
- Only spend revenues for water service
- Fees may not exceed proportional cost of service to a parcel
- Fees are only for services that are used and available to a parcel
- 45-day Written notice of proposed rate changes public hearing to adopt the changes

The 2023 Water Rate Study will accomplish these requirements through a Cost of Service and Water Rate Design Study



2023 Water Rate Study

- Set rates for 3 year: 1/1/2024, 1/1/2025, and 1/1/2026
- Based on FY 2023-24 Budget and Financial Projections

Revenue Requirement:

FY 2023/24	FY 2024/25	FY 2025/26
0.50%	6.00%	6.50%

- Commodity-Demand Methodology – focuses on two cost components
 - Commodity Costs
 - Typically variable costs associated with actual consumptions
 - Energy required to produce water
 - Demand Costs
 - Typically considered fixed costs regardless of actual consumption
 - Pipeline maintenance



2023 Water Rate Study

- Allocation of Fixed and Variable Charges (more costs allocated to the Meter Charge)

3-Year Phase-In Assumptions			
	YEAR 1	YEAR 2	YEAR 3
% Fixed	13%	16%	19%
% Variable	87%	84%	81%

- Continue to use a Single-Family Residential Tier Design based on Source of Supply

Source of Supply	Total Supplies		Cost (\$/AF) ²	Supply Costs ³ (FY 2023/24)	
	In AF/Year	% of Total		(\$)	% of Total
Tier 1					
NC Wells	1,900	11.2%	\$338	\$ 642,300	5.9%
Tier 2					
Reservoir Water	5,847	34.4%	\$506	2,955,733	27.1%
Tier 3					
Desal	6,500	38.3%	\$561	3,647,200	33.5%
Tier 4					
SDCWA	2,733	16.1%	\$1,319	3,657,200	33.5%
	16,980	100.0%		\$ 10,902,433	100%



2023 Water Rate Study

- Allocate Non-water Rate Revenue to a Rate Payer Assistance Fund
- Single-family Residential 1-inch Fire Flow Meter Charge at the 5/8-inch Meter Charge rate



Customer Class	Water Use - HCF	Current Bill	Proposed 1/1/2024	Proposed 1/1/2025	Proposed 1/1/2026	3rd Year Increase	
						\$	%
Residential	5	\$45.95	\$46.77	\$54.44	\$63.10	\$17.15	37%
Residential	10	\$70.20	\$77.87	\$86.24	\$95.65	\$25.45	36%
Residential	15	\$99.15	\$109.25	\$118.32	\$128.50	\$29.35	30%
Residential	20	\$128.74	\$141.05	\$150.82	\$161.80	\$33.06	26%
Residential	25	\$158.49	\$174.71	\$185.30	\$197.20	\$38.71	24%
Residential	30	\$191.90	\$215.81	\$227.70	\$241.00	\$49.10	26%
Residential	35	\$227.75	\$256.91	\$270.10	\$284.80	\$57.05	25%
Residential	40	\$263.60	\$298.01	\$312.50	\$328.60	\$65.00	25%
Multi-family	15	\$121.60	\$115.52	\$124.86	\$135.55	\$13.95	11%
Multi-family	200	\$1,404.40	\$1,378.13	\$1,438.56	\$1,508.98	\$104.58	7%
Commercial	5	\$53.55	\$50.02	\$57.86	\$66.75	\$13.20	25%
Commercial	500	\$3,257.40	\$3,343.13	\$3,448.56	\$3,572.98	\$315.58	10%
Public Agencies	100	\$818.30	\$680.09	\$705.77	\$735.83	(\$82.47)	-10%

HCF = volumetric unit for water billing, hundred cubic feet
 Does not include SDWCA Pass-through charges



Customer Bill Impacts

Bill Estimator

Tool for customers to view how proposed rates will impact their water bill

Use in HCF ⁽¹⁾	<input type="text" value="22"/>		
Meter Size ⁽²⁾	<input type="text" value="5/8"/>	<input type="button" value="Estimate Bill"/>	
Billing Type	Bi-Monthly		
Account Type	<input type="text" value="Single-Family Residential"/>		

Detail of Charges - Current					Detail of Charges - Proposed 1/1/2024				
Water Charge ⁽³⁾	HCF	SWA \$/HCF	CWA \$/HCF	Amount	Water Charge ⁽³⁾	HCF	SWA \$/HCF	CWA \$/HCF	Amount
Tier 1 0-10	10 x	(\$4.31 +	\$0.54) =	\$48.50	Tier 1 0-4	4 x	(\$5.30 +	\$0.52) =	\$23.28
Tier 2 11-16	6 x	(\$5.14 +	\$0.65) =	\$34.74	Tier 2 4-13	9 x	(\$5.70 +	\$0.52) =	\$55.98
Tier 3 17-27	6 x	(\$5.29 +	\$0.66) =	\$35.70	Tier 3 13-24	9 x	(\$5.84 +	\$0.52) =	\$57.24
Tier 4 28+	0 x	(\$6.37 +	\$0.80) =	\$0.00	Tier 4 24+	0 x	(\$7.70 +	\$0.52) =	\$0.00
Total Water Charge				\$118.94	Total Water Charge				\$136.50
SWA RTS Charge ⁽⁴⁾				\$21.70	SWA RTS Charge ⁽⁴⁾				\$17.27
CWA & MWD Pass-Through Charge ⁽⁵⁾				\$14.44	CWA & MWD Pass-Through Charge ⁽⁵⁾				\$13.00
Total Bi-Monthly Water Bill				\$155.08	Total Bi-Monthly Water Bill				\$166.77

www.sweetwater.org/billestimator



San Diego County Water Authority Passthrough Charges

- SDCWA Charges = Collected by Sweetwater and Passed Through to SDCWA
- Monthly Fixed Charges (even if no water is purchased)
 - Infrastructure Access Charge
 - Customer Service Charge
 - Emergency Storage Charge
 - Supply Reliability Charge
 - Readiness-to-Serve Charge (MWD)
 - Capacity Charge (MWD)



Rate Study Schedule

- June 28-Board Meeting (Budget Approval)
- August 23-final Board policy direction provide to rate consultant
- September 21-Rate Study-Open House
- September 27-2023 Water Rate Study presented to Board
- October-Proposition 218 Mailer Sent to Customers
- December 6-Rate Study Public Hearing



Development Services Program

Ongoing Process Improvement

- Tenants of Operation:
 - Trust established processes and direct challenges to appropriate person
 - Continue to regularly review process
 - Implement new procedures as necessary
 - Provide regular Board updates
- Recent Actions Taken:
 - Continue to seek feedback from developers
 - Present to our Committee/Board for further input
 - Present to stakeholders/partner agencies for further input



Improvement of Interagency Coordination and Cooperation

- Interagency protocols will facilitate permitting and construction
- Management meetings between Authority and City of C.V. and National City staff for improved coordination
- Improved development literature



Improvement of Information Availability

- Improved website capabilities:
 - Increase understanding of requirements
 - Implement application tracking tool
- Updated development brochure – currently placed at National City Building Department Counter
- In process to implement interagency checklist (Required Agency Clearance Form)
- Chula Vista has offered to include the Application Guide on their website






**WATER SERVICE NEEDED?
START PROCESS NOW!**

**APPLICATION GUIDE FOR
CONCURRENT REVIEW
WITH LAND USE AGENCY**

Sweetwater Authority provides safe, reliable water to residents and businesses in National City, Bonita and western Chula Vista.



Connect with us

-  @swawater
-  @sweetwaterauth
-  @sweetwaterauthority

(619) 420-1413

www.sweetwater.org



Money Back in *Your* Pocket

More than
40 of your
neighbors
have already
received rebates.

Claim some of the
\$15,000
that is still available
exclusively for
Authority customers.





AGENDA REPORT

Department: City Clerk's Office
Prepared by: Shelley Chapel, City Clerk
Meeting Date: Tuesday, November 21, 2023
Approved by: Ben Martinez, Interim City Manager

SUBJECT:

Approval of City Council Meeting Minutes.

RECOMMENDATION:

Approve and file.

BOARD/COMMISSION/COMMITTEE PRIOR ACTION:

Not Applicable.

EXPLANATION:

Meeting Minutes:
Special City Council Meeting of November 7, 2023
Regular City Council Meeting of November 7, 2023

FINANCIAL STATEMENT:

Not applicable.

RELATED CITY COUNCIL 2020-2025 STRATEGIC PLAN GOAL:

Not Applicable

ENVIRONMENTAL REVIEW:

This is not a project under CEQA and is therefore not subject to environmental review.CCR15378;
PRC 21065.

PUBLIC NOTIFICATION:

Agenda Report posted within 72 hours of meeting date and time in accordance with Brown Act.

ORDINANCE:

Not Applicable

EXHIBITS:

Exhibit A – Special City Council Meeting Minutes of November 7, 2023
Exhibit B – Regular City Council Meeting Minutes of November 7, 2023



SPECIAL MEETING MINUTES OF THE CITY COUNCIL

**November 7, 2023, 4:30 p.m.
City Council Chamber - 1243 National City Boulevard
National City, CA**

Present:
Councilmember Bush
Councilmember Rodriguez
Councilmember Yamane
Vice-Mayor Molina
Mayor Morrison

Others Present:
Ben Martinez, Interim City Manager
Barry J. Schultz, City Attorney
Shelley Chapel, City Clerk (via Zoom)
Richard Romero, Assistant City Attorney
Alex Hernandez, Assistant Police Chief
Tonya Hussain, Executive Secretary

1. CALL TO ORDER

A Special Meeting of the City Council of the City of National City was called to order at 4:32 p.m. via teleconference and in the Council Chamber, located in City Hall, 1243 National City Boulevard, National City, California.

2. ROLL CALL

Councilmembers present: Bush, Rodriguez, Yamane, Molina, Morrison

3. PLEDGE OF ALLEGIANCE TO THE FLAG

Councilmember Rodriguez led the Pledge of Allegiance.

4. PUBLIC COMMENT

No public comment.

5. CLOSED SESSION

Members retired into Closed Session at 4:34 p.m. Bush, Rodriguez, Yamane, Molina, Morrison, Schultz, Romero, Martinez, and Hernandez.

All members returned to the Open Session at 6:02 p.m. with all members present in attendance: Bush, Rodriguez, Yamane, Molina, Morrison, Schultz, Romero, Martinez, and Hernandez.

5.1 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Government Code Section 54956.9(d)

Number of potential cases: 2

6. ADJOURNMENT

Mayor Morrison adjourned to the Regular Meeting of the City Council of the City of National City, on Tuesday, November 7, 2023, at 6:00 p.m. in the Council Chamber, located in City Hall, 1243 National City Boulevard, National City, California.

The meeting adjourned at 6:02 p.m.

Shelley Chapel, MMC, City Clerk

The foregoing minutes were approved at the Regular Meeting of November 21, 2023.

Ron Morrison, Mayor



REGULAR MEETING MINUTES OF THE CITY COUNCIL

**November 7, 2023, 6:00 p.m.
City Council Chamber - 1243 National City Boulevard
National City, CA**

Present:
Councilmember Bush
Councilmember Rodriguez
Councilmember Yamane
Vice-Mayor Molina
Mayor Morrison

Others Present:
Ben Martinez, Interim City Manager
Barry Schultz, City Attorney
Shelley Chapel, City Clerk (via Zoom)
Carlos Aguirre, Acting Deputy City Manager/Housing Authority Director
Walter Amedee, Management Analyst III – Fire Dept.
Molly Brennan, Administrative Services Director
Joe Camacho, Police Sergeant
Danielle Ghio, Principal Librarian
Brian Hadley, Building Official/Acting Director of Community Development
Alejandro Hernandez, Assistant Chief of Police
Tonya Hussain, Executive Secretary
Stephen Manganiello, Director of Public Works/City Engineer
Richard E. Romero, Assistant City Attorney

1. CALL TO ORDER

A Regular Meeting of the City Council of the City of National City was called to order at 6:19 p.m. via teleconference and in the Council Chamber, located in City Hall, 1243 National City Boulevard, National City, California.

2. ROLL CALL

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

3. PLEDGE OF ALLEGIANCE TO THE FLAG

Councilmember Bush led the Pledge of Allegiance.

4. INVOCATION

Invocation delivered by Pastor Hugo Ramirez of Encounter Church.

5. PUBLIC COMMENT

Mayor Morrison summarized the process for acceptance of live public comment allowing two (2) minutes per comment and introduced City Clerk Chapel.

Nine (9) speakers provided in-person comments, six (6) people provided virtual comment and four (4) written comments were received.

In-Person Comment:

Joan Rincon
Gabriella Barragan
Eddie Trejo
Lewis Lawson
Geoffrey Schrock
Ted Godshalk
Mario Solano
Adam Cornejo
Christian Villasana

Written Comment:

Patrick Athay
Diana Cornejo-Sanchez
Kathleen Lippitt
Diane Grace

Virtual Comment:

Judi Strang
Barbara Gordon
Becky Rapp
Edin Enamorado
Peggy Walker
Kelly McCormick

6. PROCLAMATIONS AND RECOGNITION

6.1 Introduction of New City Employees

Assistant Police Chief Hernandez introduced Animal Regulations Officer Vania Nolasco.

Director of Public Works/City Engineer Manganiello stated that new employees for the Engineering/Public Works Dept. would be introduced at the next City Council meeting.

7. REGIONAL BOARDS AND COMMITTEE REPORTS (Limited to Five (5) Minutes each)

Councilmember Rodriguez had nothing to report.

Councilmember Bush provided an updated from the Metropolitan Transit System Board of Directors meeting.

Councilmember Yamane announced an upcoming event at El Toyon Park for Districts 2 and 3 scheduled to occur on November 18, 2023.

Vice-Mayor Molina reported on the SANDAG Board of Directors Meeting.

Mayor Morrison reported on the Sweetwater Authority.

Port of San Diego Commissioner Sandy Naranjo provided a report on the recent Board Meeting.

8. CONSENT CALENDAR

ACTION: Motion by Councilmember Yamane, seconded by Vice-Mayor Molina to approve Consent Calendar Items 8.1 through 8.8 and 8.10 through 8.13 with Item 8.9 pulled by Councilmember Yamane.

Motion carried by unanimous vote.

8.1 Approval of Reading by Title Only and Waiver of Reading in Full of Ordinance on this Agenda

Motion carried by unanimous vote.

8.2 Approval of City Council Meeting Minutes.
Approve and file.

Motion carried by unanimous vote.

8.3 Acceptance of the Department of Alcoholic Beverage Control Award of \$40,000 to the National City Police Department to perform operations sponsored by the Department of Alcoholic Beverage Control's Minor Decoy/Shoulder Tap Grant Project.

Adopted Resolution No. 2023-150

Adopt the Resolution Entitled, "Resolution of the City of National City, California, Authorizing the Acceptance of the Department of Alcoholic Beverage Control's Minor Decoy/Shoulder Tap Grant Project Funds in the Amount of \$40,000, Funded by the California Office of Traffic Safety through the National Highway Traffic Safety Administration, and Authorizing the Establishment of a Fiscal Year 2024 Appropriation and Corresponding Revenue Budget in the Amount of \$40,000."

Motion carried by unanimous vote.

8.4 Accepting a Caltrans Sustainable Transportation Planning Grant for the National City Sustainable Mobility Plan (SMP)

Adopted Resolution No. 2023-151

Adopt a Resolution Entitled, "Resolution of the City Council of the City of National City, California, 1) Accepting a California Department of Transportation (Caltrans), Division of Transportation Planning, Sustainable Transportation Planning Grant in the Amount of \$422,918; 2) Authorizing the City Manager to Execute the Grant Agreement and any Amendments Thereto with Caltrans for the National City Sustainable Mobility Plan; 3) Authorizing the Establishment of an Engineering

Grants Fund Appropriation of \$422,918 and Corresponding Revenue Budget; and
4) Committing to Providing a Local Match of \$54,795.”

Motion carried by unanimous vote.

8.5 Acting Assignment Policy

Adopted Resolution No. 2023-152

Adopt a Resolution Entitled, “Resolution of the City Council of the City of National City, California, Adopting a City Administrative Policy on Acting Assignments.”

Motion carried by unanimous vote.

8.6 Affordable Housing Density Bonus Agreement for 2704 East 18th Street

Adopted Resolution No. 2023-153

Adopt the Resolution Entitled “Resolution of the City Council of the City of National City, California, Approving an Affordable Housing Density Bonus Agreement and Related Documents with 2704 18th, LLC, a California Limited Liability Company, and Restricting the Rent and Occupancy of Two Units to Low-Income Households in Exchange for Four Incentives Pursuant to California Government Code Sections 65915 – 65918 for the Development of Nine Housing Units Located at 2704 East 18th Street in National City.”

Motion carried by unanimous vote.

8.7 Approval of a Resolution Authorizing the Acceptance of Justice Assistance Grant (JAG) and Appropriation of Funds to Purchase Red Dot Pistol Optics and Holsters.

Adopted Resolution No. 2023-154

Adopt a Resolution Entitled, “Resolution of the City Council of the City of National City, California, Authorizing the Acceptance of the National City Police Department’s Grant Award of \$31,358.00 from the 2023 Edward Byrne Memorial Justice Assistance Grant (JAG) Program to Purchase Red Dot Pistol Optics and Holsters, and Authorizing the Establishment of an Appropriation and Corresponding Revenue Budget.”

Motion carried by unanimous vote.

8.8 Authorize Adding One (1) Full-Time Police Dispatch Supervisor and Removing One (1) Full-Time Police Dispatcher for Fiscal Year 2023-2024 and Onward.

Adopted Resolution No. 2023-155

Adopt a Resolution Entitled, “Resolution of the City Council of National City, California, Authorizing the Addition of One (1) Police Dispatch Supervisor and Removal of One Police Dispatcher from the Authorized Positions of the City.”

Motion carried by unanimous vote.

Item pulled for discussion by Councilmember Yamane.

8.9 National City Chamber of Commerce Economic Development Agreement

Adopted Resolution No. 2023-156

Adopt the Resolution Entitled, "Resolution of the City Council of the City of National City, California, Authorizing the Mayor to Execute an Agreement between the City of National City and the National City Chamber of Commerce for a Not-to-Exceed Amount of \$50,000 to Assist in Economic Development Services."

ACTION: Motion by Councilmember Yamane, seconded by Vice-Mayor Molina to adopt the resolution.

Motion carried by unanimous vote.

8.10 Ratifying Prior Expenditures and Amendment No. 1 for Section 8 Software.

Adopted Resolution No. 2023-157

Adopt the Resolution Entitled, "Resolution of the Community Development Commission-Housing Authority of the City of National City, California, Ratifying Prior Expenditures from Fiscal Year (FY) 2002 through FY 2024 Totaling \$292,349.49 and Master Agreement Amendment No. 1, Including a Not-to-Exceed Amount of \$35,030.00 for FY 2025, to Administer the Section 8 Housing Choice Voucher Program through Happy Software Inc., Now Known as MRI Software LLC."

Motion carried by unanimous vote.

8.11 Investment transactions for the month ended August 31, 2023.

Accept and file the Investment Transaction Ledger for the month ended August 31, 2023.

Motion carried by unanimous vote.

8.12 Warrant Register #11 for the period of 9/8/23 through 9/14/23 in the amount of \$607,705.26

Ratify Warrants Totaling \$607,705.26

Motion carried by unanimous vote.

8.13 Warrant Register #12 for the period of 9/15/23 through 9/21/23 in the amount of \$2,130,294.40

Ratify Warrants Totaling \$2,130,294.40

Motion carried by unanimous vote.

9. **PUBLIC HEARING**

9.1 Second Reading and Adoption of Ordinance Establishing Speed Limits Based on Engineering and Traffic Surveys

Director of Public Works/City Engineer Manganiello requested that the item be continued to the City Council meeting of November 21, 2023 to allow staff time to address public comment received.

In-person public comment was received from Ted Godshalk and a written comment was received from Zachary Gomez.

Recommendation: Adopt an Ordinance Establishing Speed Limits on Various Streets Based on Engineering and Traffic Surveys and Authorizing the Director of Public Works to Post Speed Limit Signs Consistent with the Recommendations of the Engineering and Traffic Surveys.

ACTION: Motion by Vice-Mayor Molina, seconded by Councilmember Bush to continue the item to the City Council meeting of November 21, 2023.

Motion carried by unanimous vote.

9.2 Cost Recovery Fees for Fire Department Responses

Adopted Resolution No. 2023-158

Management Analyst Walter Amedee provided the report.

Mayor Morrison declared the Public Hearing open at 7:22 p.m.

There was no public comment.

ACTION: Motion by Vice-Mayor Molina, seconded by Councilmember Yamane to Close the Public Hearing.

Motion carried by unanimous vote

Public Hearing closed at 7:22 p.m.

Recommendation: Adopt the Resolution Entitled “Resolution of the City Council of the City of National City, California, Amending Exhibit “A” of the National City Municipal Code Section 4.70.03 Relating to Recovering Costs for the Deployment of Emergency Services by the National City Fire Department.”

ACTION: Motion by Vice-Mayor Molina, seconded by Councilmember Bush to adopt the resolution.

Motion carried by unanimous vote.

9.3 Introduction of an Ordinance Amending National City Municipal Code Sections 10.70 – Police Regulated Business Regulations and 10.79 – Massage Establishments.

Mayor Morrison introduced Police Sergeant Joe Camacho who provided an overview of the report and PowerPoint presentation.

Mayor Morrison declared the Public Hearing open at 7:28 p.m.

There was no public comment.

ACTION: Motion by Councilmember Bush, seconded by Vice-Mayor Molina to Close the Public Hearing.

Motion carried by unanimous vote

Public Hearing closed at 7:28 p.m.

Recommendation: Introduction and First Reading of an Ordinance Entitled, “An Ordinance of the City Council of the City of National City, California, Amending Chapters 10.70 – Police Regulated Business Regulations and 10.79 – Massage Establishments of the National City Municipal Code.”

ACTION: Motion by Vice-Mayor Molina, seconded by Councilmember Bush to accept the first reading of the Ordinance.

Motion carried by unanimous vote.

10. STAFF REPORTS

10.1 Fiscal Year 2024 First Quarter Budget Review

Adopted Resolution No. 2023-159.

Budget Manager Paul Valadez provided the report.

Recommendation: Accept and File this Report, and Adopt a Resolution Entitled, “Resolution of the City Council of the City of National City, California, Authorizing Various Fiscal Year 2024 1st Quarter Budget Adjustments.”

ACTION: Motion by Councilmember Yamane to deny the resolution. Motion died due to lack of a second.

ACTION: Motion by Vice-Mayor Molina, seconded by Councilmember Rodriguez to accept and file the report and for staff to return with a more detailed report.

Motion carried by 4-1 vote.

Ayes: Bush, Rodriguez, Molina, Morrison

Nays: Yamane

10.2 Consideration of a Project Labor Agreement with the San Diego Building and Construction Trades Council and Associated Craft Unions.

Adopted Resolution No. 2023-160.

Mayor Morrison introduced Interim City Manager Ben Martinez who presented the item via a PowerPoint presentation.

Councilmember Bush left the dais at 7:54 p.m. and returned at 7:56 p.m.

Public Comment:

In-Person Comment:

Victor Diaz

Ricardo Sanchez

Jose Chavez

Abdur-Raheem Hameed

Cori Schumacher

Matthew Leyba-Gonzalez

Carol Kim

Johnny Swanson

Ansermio Estrada

Written Comment:

Dustin Steiner

Recommendation: Adopt a Resolution Entitled, "Resolution of the City Council of the City of National City, California, Authorizing Entering into a Project Labor Agreement with the San Diego Building and Construction Trades Council and Associated Craft Unions."

ACTION: Motion by Councilmember Yamane, seconded by Councilmember Rodriguez to adopt the resolution.

Motion carried by unanimous vote.

11. CITY MANAGER'S REPORT

Interim City Manager Ben Martinez reported on his attendance at the San Diego Rescue Mission Fall Graduation ceremony.

12. ELECTED OFFICIALS REPORT

Closing remarks were provided by members of the City Council.

13. CITY ATTORNEY REPORT

No report.

14. ADJOURNMENT

Mayor Morrison adjourned to the Regular Meeting of the City Council of the City of National City, Tuesday, November 21, 2023, 6:00 p.m. in the Council Chamber, located in City Hall, 1243 National City Boulevard, National City, California.

The meeting adjourned at 8:31 p.m.

Tonya Hussain, Executive Secretary

The foregoing minutes were approved at the Regular Meeting of November 21, 2023.

Ron Morrison, Mayor



AGENDA REPORT

Department: Housing Authority
Prepared by: Greg Rose, Property Agent
Meeting Date: Tuesday, November 21, 2023
Approved by: Ben Martinez, Interim City Manager

SUBJECT:

Affordable Housing Density Bonus Agreement for 200 E 31st Street

RECOMMENDATION:

Adopt the Resolution Entitled “Resolution of the City Council of the City of National City, California, Approving an Affordable Housing Density Bonus Agreement and Related Documents with KD Cove, LLC, a California Limited Liability Company, and Restricting the Rent and Occupancy of Five Units to Very-Low-Income Households in Exchange for One Incentive Pursuant to California Government Code Sections 65915–65918 for the Development of 92 Housing Units Located at 200 E 31st Street in National City.”

BOARD/COMMISSION/COMMITTEE PRIOR ACTION:

Not Applicable.

EXPLANATION:

KD Cove, LLC (“Developer”) plans to build a 92-unit project at 200 E 31st Street. The current zoning on the property allows the Developer to build 113 units by right. California Government Code 65915–65918 (“Density Bonus and Other Incentives”) entitles development projects to claim specific incentives or concessions provided that the development restricts a certain proportion of the units to low or very-low-income. The Developer is proposing to restrict five units as very-low income (50% Area Median Income), in exchange for one (1) incentive. The requested incentive is to remove private open space requirements for the project.

The Planning Division approved the incentive, which will be recorded in the Affordable Density Housing Bonus Agreement (“Agreement,” Exhibit “B”). The Agreement will memorialize the Developer’s obligation to restrict the affordable units for 55 years. A Performance Deed of Trust (Exhibit “C”) and a Subordination Agreement (Exhibit “D”) will be recorded to secure the Agreement on the property. Information on the Density Bonus Program can be found in the Background Information (Exhibit “A”), and on the City’s website, and on the City’s website, www.nationalcityca.gov, under [Asset Management](#).

2023 Income Limits (Effective 05/15/2023)			
Number of Persons	Extremely Low-Income 30% of Median	Very Low-Income 50% of Median	Low-Income 80% of Median
1	\$28,950	\$48,250	\$77,200
2	\$33,100	\$55,150	\$88,200
3	\$37,250	\$62,050	\$99,250
4	\$41,350	\$68,900	\$110,250
5	\$44,700	\$74,450	\$119,100
6	\$48,000	\$79,950	\$127,900
7	\$51,300	\$85,450	\$136,750
8	\$54,600	\$90,950	\$145,550

FINANCIAL STATEMENT:

The Developer will be paying all City fees associated with the construction of this project. Upon completion, it will add to the property tax base for the City. The Housing Authority will collect an annual monitoring fee of \$215.00 per affordable unit and is subject to annual increases.

RELATED CITY COUNCIL 2020-2025 STRATEGIC PLAN GOAL:

Housing and Community Development

ENVIRONMENTAL REVIEW:

This is not a project under CEQA and is therefore not subject to environmental review.CCR15378; PRC 21065.

PUBLIC NOTIFICATION:

Agenda Report posted within 72 hours of meeting date and time in accordance with Brown Act.

ORDINANCE:

Not Applicable

EXHIBITS:

- Exhibit A – Background Information
- Exhibit B – Density Bonus Agreement
- Exhibit C - Deed of Trust
- Exhibit D - Subordination Agreement
- Exhibit E - 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, 2023, 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.

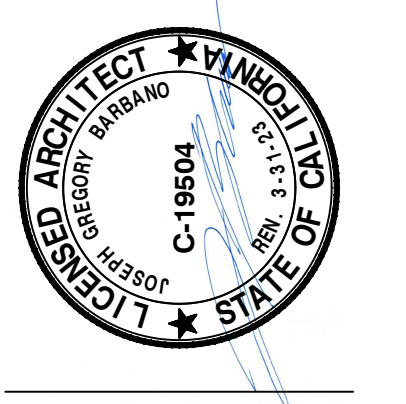
The Density Bonus Law is often used by developers to obtain more housing than the local jurisdiction would ordinarily permit, it can also be a helpful land use tool. The density bonus can provide a useful mechanism for increasing allowable density without requiring local officials to approve general 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; deviation from front yard and street side yard setback requirements, a deviation from floor area ratio requirements, and a waiver from common open space requirements.

50% Area Median Income Limits for National City effective April 1, 2023								
Family Size	1	2	3	4	5	6	7	8
	\$48,250	\$55,150	\$62,050	\$68,900	\$74,450	\$79,950	\$85,450	\$90,950

The site plans for the apartment project at 200 E 31 Street start on the following page.



ACCESSIBLE ROUTE NOTES:

1. Accessible routes of travel shall be provided from public transportation stops, accessible parking and accessible passenger loading zones, and public streets or sidewalks to the accessible entrances they serve. The accessible route shall to the extent feasible, coincide with the route for the general public. Section 1110A.1
2. At least one accessible route shall connect accessible buildings facilities, elements and spaces that are on the same site. Section 1110A.1
3. Where more than one route of travel is provided, all routes shall be accessible. Section 1110A.2
4. If an accessible route has changes in level greater than 1/2 inch, then a curb ramp, ramp, elevator or platform lift shall be provided. Stairs shall not be part of an accessible route. Section 1111A.2
5. Curb ramps shall be constructed at each corner of street intersections and where pedestrian way crosses a curb. Section 1112A.1
6. Curb ramps shall be a minimum of 4 feet in width and shall be located to prevent obstruction by parked cars. Sections 11B-406.5.2 and 11B406.5.1
7. The slope of the curb ramp shall not exceed 1 vertical to 12 horizontal (8.33%). If a curb ramp is located where pedestrians must walk across the ramp, then it shall have flared sides of the ramp which slope at maximum 1:10. Section 11B-406.5.2
8. A level landing 4 feet deep shall be provided at the upper end of each curb ramp over its full width to permit safe egress from the ramp surface, or the slope of the flared or flared sides of the curb ramp shall not exceed 1 vertical to 10 horizontal. Sections 11B-406.5.3 and 11B-406.2.2
9. Detectable warnings, 36" deep and extending the full width and of the curb ramp are to be installed for all curb ramps (regardless of slope), per Section 11B-705. Only approved DSA/AC detectable warning products and directional surfaces shall be installed. Section 11B-705.3
10. Curb ramps and the flared sides of curb ramps shall not encroach into any accessible parking space or the adjacent access aisle. Section 11B-406.5.1
11. The maximum slope of the parking surface at the accessible space and adjacent access aisle, in any direction, shall be less than or equal to 1:48. Section 11B-502.4. See Grading Plans.
12. At every primary public entrance, and at every major function area along, or leading to, an accessible route of travel there is to be a sign displaying the international symbol of accessibility. Signs are required to indicate the direction to accessible building entrances and facilities, per Section 11B-216.3
13. Provide 36" wide detectable warning material at boundaries between walkways and vehicular ways. Sections 11B-247.1.2.5 and 11B-705.1.2.5. See Grading Plans.
14. Detectable warnings shall be installed in curb ramps with one or two entrance/exit points that are 6' or 9' wide, respectively. Section 11B-705.1.2.2
15. Detectable warnings are not permitted in the required turning spaces, clear floor spaces, landings for doors, pedestrian ramps, access aisles to accessible parking, drop off/ loading zones & stairs. Sections 11B-304.2, 11B-305.2, 11B-404.2.4.4, 11B-405.7, 11B-502.4, 11B-503.4, 11B-504.4, and 11B-705.1.2.2, respectively.

ACCESSIBLE ROUTE NOTES

2

SITE PLAN KEYNOTES:

1. (N) FLATWORK, CURBS, WALKWAYS, SEE CIVIL PLANS.
2. (N) SWIMMING POOL AND SPA, SEE CIVIL AND LANDSCAPE PLANS.
3. LOCATION OF (N) ELECTRIC METERS, CABLE AND TELEPHONE CABINETS, PER SDGE INSTALLATION REQUIREMENTS. SEE CIVIL AND ELECTRICAL PLANS.
4. (N) ELECTRICAL TRANSFORMER, PER SDGE.
5. PROPERTY LINE.
6. FINISH GRADE/TOP OF HARDSCAPE SHALL BE SLOPED SO THAT SURFACE WATER WILL DRAIN AWAY FROM BUILDING. SLOPE 5% MINIMUM WITHIN THE FIRST 10 FEET, 2% MINIMUM FOR IMPERVIOUS SURFACES. SECTION 1804.4. SEE CIVIL GRADING PLANS.
7. ALL 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 BE A MINIMUM OF 4" HIGH WITH A MINIMUM STROKE OF .5 INCHES. WHERE ACCESS IS BY MEANS OF A PRIVATE ROAD AND THE BUILDING CANNOT BE VIEWED FROM THE PUBLIC WAY, A MONUMENT, POLE OR OTHER SIGN OR MEANS SHALL BE USED TO IDENTIFY THE STRUCTURE. CFC SECTION 505.1.
8. ENCLOSED PRIVATE GARAGES FOR TOTAL OF 54 VEHICLES, WITHIN BUILDING A,B, C, D & F STRUCTURES.
9. 95 TOTAL OPEN PARKING SPACES ON SITE, INCLUDING: 8 ADA SPACES, 71 STANDARD SPACES, 13 COMPACT SPACES, AND 3 MOTORCYCLE SPACES. SEE 8/A0.2 FOR PARKING ALLOCATION/ CALCULATIONS PER NATIONAL CITY PARKING REQUIREMENTS.
10. FUTURE SOLAR PANEL CARPORT STRUCTURES ALONG EAST AND SOUTH PARKING AREAS (NOT IN PERMIT).
11. EVSE (ELECTRIC VEHICLE) CHARGING STATION. SEE 5/A0.2 FOR ADDITIONAL INFORMATION.
12. COMMON USEABLE OPEN SPACE. SEE 2/A0.2
13. BICYCLE PARKING WITH GALVANIZED STEEL BICYCLE RACK. SEE 4/A0.2
14. MAILBOXES AND PARCEL BOXES AT BUILDING E.
15. (N) DOWNSPOUT LOCATION, TYP. CONVEY RAINWATER DISCHARGE PER CIVIL GRADING PLANS.
16. PRIVATE OUTDOOR OPEN SPACE AT FIRST FLOOR UNITS, WITH 42" (MAX.) HEIGHT FENCING.
17. RIGHT-OF-WAY WORK AT STREET FRONTAGE AND AT ADJACENT PARCELS, PER CIVIL PLANS.
18. (N) TRASH ENCLOSURE STRUCTURES. SEE A7.21.
19. SEE LANDSCAPE PLANS FOR SITE LANDSCAPING.
20. STAIRWAY ACCESS TO UPPER FLOORS.
21. OUTLINE OF ROOF SHOWN FOR REFERENCE.
22. OUTLINE OF WALLS ABOVE.
23. FOR SITE RETAINING WALLS AND FENCING LAYOUT SEE CIVIL GRADING PLANS, TYP.
24. VAN ACCESSIBLE PARKING SPACE (9' MIN. WIDTH) WITH ACCESS AISLE (8' MIN. WIDTH). INSTALL SIGNAGE WITH SYMBOL OF ACCESSIBILITY, AND SIGN "VAN ACCESSIBLE" MOUNTED BELOW. THE WORDS "NO PARKING" SHALL BE PAINTED ON THE GROUND WITHIN ACCESS AISLE, LOCATED TO BE VISIBLE TO TRAFFIC ENFORCEMENT OFFICIALS.
25. ADDITIONAL SIGN AT ACCESSIBLE PARKING SPACE STATING, "UNAUTHORIZED VEHICLES PARKED IN DESIGNATED HANDICAPPED SPACES NOT DISPLAYING DISTINGUISHING PLACARDS OR LICENSE PLATES ISSUED FOR PHYSICALLY DISABLED PERSONS MAY BE TOWED AWAY AT OWNER'S EXPENSE. TOWED VEHICLES MAY BE RECLAIMED AT _____ OR BY TELEPHONING _____. THE SIGN SHALL NOT BE LESS THAN 17" x 22" IN SIZE W/ LETTERING NOT LESS THAN 1" IN HEIGHT.
26. EACH ACCESSIBLE PARKING SPACE SHALL HAVE:
 - AN ACCESSIBLE PARKING SIGN MOUNTED ON STEEL POST PER DETAIL 3/A0.87.
 - SURFACE IDENTIFICATION OF THE FOLLOWING SCHEME: BY OUTLINING OR PAINTING THE STALL OR SPACE IN BLUE AND OUTLINING ON THE GROUND IN THE STALL OR SPACE IN WHITE OR SUITABLE CONTRASTING COLOR THE "INTERNATIONAL SYMBOL OF ACCESSIBILITY".
27. A VERTICAL CLEARANCE OF 8 FEET 2 INCHES (MEASURED TO THE LOWEST PROJECTION FROM THE CEILING) SHALL BE MAINTAINED TO EACH REQUIRED ACCESSIBLE PARKING SPACE. SECTION 1109A.8.1.
28. MAINTENANCE CLOSET.
29. FIRE RISER CLOSET.
30. ACCESSIBLE ROUTE OF TRAVEL - SEE ADDITIONAL INFORMATION AT NOTES #1 - 9, 2/A0.4 (ABOVE LEFT).
31. (N) ENTRY MONUMENT WALL. SEE LANDSCAPE PLANS.
32. ON-STREET GUEST PARKING - SIX SPACES TOTAL.
33. PROPOSED (N) UTILITY POLE. SEE SDGE AND CIVIL PLANS.
34. LINE USED TO DETERMINE FIRE SEPARATION DISTANCE (IMAGINARY PROPERTY LINE). SEE A0.1, A0.2, A0.31, A0.32, AND FLOOR PLANS, ROOF PLANS, EXTERIOR ELEVATIONS AND BUILDING SECTIONS FOR BUILDING CODE COMPLIANCE.
35. BUILDINGS OR PORTIONS OF BUILDINGS OR FACILITIES EXCEEDING 30 FEET IN HEIGHT ABOVE THE LOWEST LEVEL OF FIRE DEPARTMENT VEHICLE ACCESS SHALL BE PROVIDED WITH APPROVED FIRE APPARATUS ACCESS ROADS CAPABLE OF ACCOMMODATING FIRE DEPARTMENT AERIAL APPARATUS. OVERHEAD UTILITY AND POWER LINES SHALL NOT BE LOCATED WITHIN THE AERIAL FIRE APPARATUS ACCESS ROADWAY. THE 26" FIRE APPARATUS ROAD SHALL HAVE NO LESS THAN 14" HIGH CLEAR SPACE AND SHALL HAVE AN ALL-WEATHER ROAD WITH THE ABILITY TO SUPPORT 75,000 POUNDS OR GREATER.
36. RECREATION ROOM & LEASING OFFICE AT FIRST FLOOR OF BUILDING E. SEE A0.82 FOR ADA REQUIREMENTS.
37. ACCESSIBLE COMMUNITY RESTROOMS AT FIRST FLOOR OF BUILDING E. SEE A0.83 FOR ADA REQUIREMENTS.
38. (N) POOL EQUIPMENT ENCLOSURE. SEE A7.22.
39. NEIGHBOR BUILDING & PARKING SHOWN AS REFERENCE.
40. (E) UTILITY EASEMENT AT ADJACENT PROPERTY (SEWER).
41. CIRCULATION PATHS SHALL BE A MINIMUM 4" ABOVE ADJOINING VEHICULAR TRAFFIC AREAS INCLUDING PARKING, DRIVEWAYS, DRIVE AISLES, VEHICLE CHARGING SPACES, ETC., SECTION 11B-250.
 - a. IF ANY PROPOSED WALKS SLOPE GREATER THAN 1:20 (5%), THEY MUST COMPLY WITH RAMP REQUIREMENTS. SECTION 11B-402.2.
 - b. WALKS ALONG AN ACCESSIBLE ROUTE OF TRAVEL ARE REQUIRED TO BE 48" MINIMUM IN WIDTH AND HAVE SLIP RESISTANT SURFACES. PER SECTION 11B-403.5.1, EXCEPTION 3.
 - c. THE MAXIMUM PERMITTED CROSS SLOPE FOR WALKWAYS SHALL BE 1:48. PER SECTION 11B-403.3.
42. LINE FOR ALLOWABLE OPENINGS PER TABLE 705.8, TO COMPLY WITH EXTERIOR EXIT STAIR SECTION 1027.5.3.

NOTE: OWNER TO OBTAIN A CONSTRUCTION PERMIT FROM THE ENGINEERING DEPARTMENT AT LEAST 48 HOURS PRIOR TO WORKING IN THE PUBLIC RIGHT-OF-WAY. IT IS THE RESPONSIBILITY OF THE OWNER TO KNOW WHERE HIS/HER PROPERTY LINE IS.

BEFORE EXCAVATION CALL U.S.A

OWNER AND/OR CONTRACTOR ARE RESPONSIBLE FOR LOCATION & VERIFICATION OF ALL EXISTING UNDERGROUND UTILITIES. UNDERGROUND SERVICE ALERT (USA) SHOULD BE NOTIFIED FOR ASSISTANCE IN THIS MATTER AT (800) 227-2600, 48 HOURS PRIOR TO ANY CONSTRUCTION.

THE (USA) AUTHORIZATION NUMBER SHALL BE KEPT AT THE JOB SITE. LOCATION AND CHARACTER OF ANY UTILITIES IF SHOWN HEREON ARE APPROXIMATE, AND TAKEN FROM A COMBINATION OF SURFACE STRUCTURE OBSERVATION AND/OR THE RECORDS OF THE CONTROLLING AGENCY. ARCHITECT DOES NOT ASSUME RESPONSIBILITY FOR THE LOCATION OF ANY EXISTING UTILITIES OR OTHER UNDERGROUND FEATURES SUCH AS VAULTS, TANKS, BASEMENTS, BURIED OBJECTS, ETC.

OPEN SPACE SUMMARY TABLE:

open space areas	location	WIDTH	LENGTH
A	1403 sf west side of A	10'	139'
B	1385 sf between A and B	20'	68'
C	1420 sf west side of B	10'	140'
D	7770 sf* main rec area	58'	156'
E	579 sf SE corner of site	25'	25'
F	643 sf west side of C	10'	62'
G	670 sf east side of C	10'	62'
H	638 sf west side of D	10'	60'
J	566 sf east side of D	10'	60'
K	549 sf west side of F	10'	54'
L	535 sf east side of F	10'	54'
16158 sf			

* open space area D does not include area of enclosed structures

RECYCLING NOTE:
 A MINIMUM OF 65% OF CONSTRUCTION WASTE IS TO BE RECYCLED. CGC 4.408.1.
 CONTRACTOR SHALL SUBMIT A CONSTRUCTION WASTE MANAGEMENT PLAN. CGC 4.408.2.

NOTE: THE DISCHARGE OF POLLUTANTS TO ANY STORM DRAINAGE SYSTEM IS PROHIBITED. NO SOLID WASTE, PETROLEUM BYPRODUCTS, SOIL PARTICULATE, CONSTRUCTION WASTE MATERIALS, OR WASTEWATER GENERATED ON CONSTRUCTION SITES OR BY CONSTRUCTION ACTIVITIES SHALL BE PLACED, CONVEYED OR DISCHARGED INTO THE STREET, GUTTER OR STORM DRAIN SYSTEM.

SURFACE WATER DRAINAGE NOTES:

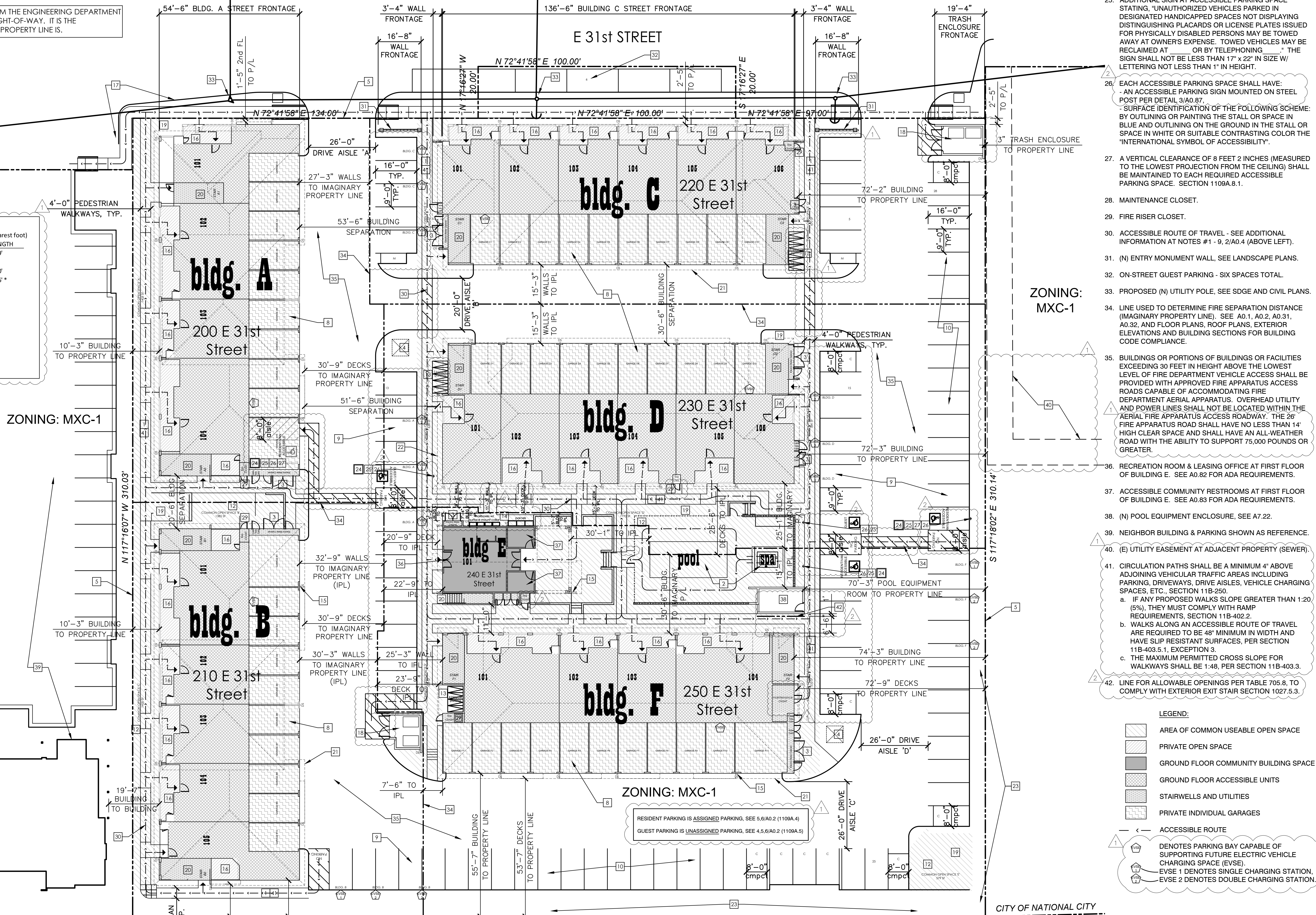
R401.3 DRAINAGE. SURFACE DRAINAGE SHALL BE DIVERTED TO A STORM SEWER CONVEYANCE OR OTHER APPROVED POINT OF COLLECTION THAT DOES NOT CREATE A HAZARD. LOTS SHALL BE GRADED TO DRAIN SURFACE WATER AWAY FROM FOUNDATION WALLS. THE GRADE SHALL FALL A MINIMUM OF 6 INCHES WITHIN THE FIRST 10 FEET.

EXCEPTION: WHERE LOT LINES, WALLS, SLOPES OR OTHER PHYSICAL BARRIERS PROHIBIT 6 INCHES OF FALL WITHIN 10 FEET, DRAINS OR SWALES SHALL BE CONSTRUCTED TO ENSURE DRAINAGE AWAY FROM THE STRUCTURE. IMPERVIOUS SURFACES WITHIN 10 FEET OF THE BUILDING FOUNDATION SHALL BE SLOPED A MINIMUM OF 2 PERCENT AWAY FROM THE BUILDING.

THE SITE SHALL BE PLANNED AND DEVELOPED TO KEEP SURFACE WATER AWAY FROM BUILDINGS. PLANS SHALL BE PROVIDED AND APPROVED BY THE CITY ENGINEER THAT SHOW SITE GRADING AND PROVIDE FOR STORM WATER RETENTION AND DRAINAGE DURING CONSTRUCTION. BMP'S THAT ARE CURRENTLY ENFORCED BY THE CITY ENGINEER MUST BE IMPLEMENTED PRIOR TO INITIAL INSPECTION BY THE BUILDING DEPARTMENT. CGC 4.106.3.

LANDSCAPE IRRIGATION WATER USE SHALL HAVE WEATHER BASED CONTROLLERS. PER CGC 4.304.1.

NOTE: ALL PROPERTY LINES, EASEMENTS AND BUILDINGS, EXISTING AND PROPOSED, ARE SHOWN ON THIS SITE PLAN.



LEGEND:

- AREA OF COMMON USEABLE OPEN SPACE
- PRIVATE OPEN SPACE
- GROUND FLOOR COMMUNITY BUILDING SPACE
- GROUND FLOOR ACCESSIBLE UNITS
- STAIRWELLS AND UTILITIES
- PRIVATE INDIVIDUAL GARAGES
- ACCESSIBLE ROUTE
- DENOTES PARKING BAY CAPABLE OF SUPPORTING FUTURE ELECTRIC VEHICLE CHARGING SPACE (EVSE)
- EVSE 1 DENOTES SINGLE CHARGING STATION, EVSE 2 DENOTES DOUBLE CHARGING STATION.

SITE PLAN

1/16" = 1'-0" 1

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]

APN 562-252-45-00

**AFFORDABLE HOUSING DENSITY BONUS AGREEMENT
(200 E 31st Street)**

THIS AFFORDABLE HOUSING DENSITY BONUS AGREEMENT (“Agreement”) is dated as of the ___ day of _____, 2023, by and between the City of National City (“City”), and KD Cove, LLC, a California limited liability company (“Developer”).

WHEREAS, Developer is the owner of that certain real property generally located at 200 31st Street, in the City of National City, County of San Diego, more particularly described in Exhibit “A” attached hereto (“Property”); and

WHEREAS, Developer has applied to the City for a density bonus pursuant to Government Code section 65915, and Sections 18.48.030, et seq. of the National City Municipal Code, provided, however, the Developer independently and of its own free will chose not to increase the density of the Development to be built at the Property. Rather, the Developer is electing to only take one incentive (as defined in Government Code Section 65915 and Sections 18.48.040 of the National City Municipal Code) in exchange for providing the Affordable Units, as defined below; and

WHEREAS, Developer proposes to develop a total of ninety-two (92) housing units on the Property (“Development”) and restrict the rent and occupancy of five (5) residential dwelling units (“Affordable Unit(s)”) to very low-income households in exchange for the one (1) incentive. The Affordable Units shall consist of two (2) studios (489 and 493 square feet respectively), two (2) one bedroom units (634 and 644 square feet respectively) and one (1) two bedroom unit (894 square feet). The initial Affordable Units are to be Units 200-103, 200-104, 200-206, 210-101 and 210-105. However, the Affordable Units may be moved within the development so long as the units have similar finishes and are of similar size, as needed; and

WHEREAS, This Agreement will serve to memorialize Developer’s obligation to provide the Affordable Units, the time frame for the construction and occupancy of the 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 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, the Development is entitled to and is receiving one (1) incentive pursuant to and in accordance with Government Code 65915.

2. Developer Covenants. Pursuant to and in consideration of the incentive, 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 the two (2) studios, two (2) one bedroom units and one (1) two bedroom unit shall be rented and occupied as the Affordable Units as 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, each of the Affordable Units 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 Units (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 studio Affordable Unit shall be calculated using fifty percent (50%) of the Area Median Income for a 1-person household.

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

(a) No Relationship With Developer. The Affordable Units 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 Units 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 Units 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 Units 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 Units 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 have income in excess of the limit set forth in Section 3(b), above, that household will continue to be eligible to occupy the Affordable Unit, but shall commence paying rent equivalent to thirty percent (30%) of the household's income and Developer shall pay to the City an amount equal the difference between the actual amount of rent paid by the household and the maximum amount of rent for the unit as set forth in Section 3(c), above. Notwithstanding the foregoing, if as a result of the annual recertification procedure described in Section 7 below, a household's income is determined to be in excess of 120% of the Area Median Income, then the Developer shall take all reasonable steps to pursue eviction of the household.

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. 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; and (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 Units 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 Units are 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 Affordable Units 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 Units 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 Units 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 correct any deficiencies after receipt of proper notice 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 Units. The Affordable Units 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 Units. 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 eighty (180) 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 Units, 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(s) (ii) the rents actually collected by Developer for the Affordable Unit(s) 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 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(s), 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

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: _____
Ben Martinez, Interim City Manager

APPROVED AS TO FORM:

City Attorney

By: _____
Barry J. Schultz

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

DEVELOPER:

KD Cove, LLC.
a California limited liability company

By: KIRE Homes III, LLC
a California limited liability company

By: Santa Re Family Investments, L.P.
a California Limited Partnership
Its: Managing Member

By: Santa Re, Inc.
a California Corporation
Its: General Partner

By: 
Joshua Santa

Its: President

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 October 24, 2023, ~~2022~~, before me, Gina Patel, notary public, notary public, personally appeared Joshua Sunta, 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 [REDACTED] _____



(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 _____, 2022, 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

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCELS 1 AND 2 OF PARCEL MAP NO. 10843, IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 31, 1980, TOGETHER WITH THE WESTERLY 100 FEET OF THE EASTERLY 197 FEET OF THE NORTHERLY 100 FEET OF THE WESTERLY HALF OF THE EASTERLY HALF OF 10 ACRE LOT 8, QUARTER SECTION 152 OF THE RANCHO DE LA NACION, IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP NO. 166, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MAY 11, 1869, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF PARCEL 2 OF SAID PARCEL MAP NO. 10843; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 2, SOUTH 19°02'42" EAST 310.17 FEET TO THE SOUTHERLY LINE OF SAID PARCEL MAP NO. 10843; THENCE ALONG SAID SOUTHERLY LINE SOUTH 70°58'32" WEST 332.25 FEET TO THE EASTERLY LINE OF THE WESTERLY HALF OF LOT 8 OF QUARTER SECTION 152 PER MAP NO. 166; THENCE ALONG SAID EASTERLY LINE NORTH 19°02'08" WEST 310.01 FEET TO THE SOUTHERLY LINE OF 31ST STREET; THENCE ALONG SAID SOUTHERLY LINE NORTH 70°56'52" EAST 135.18 FEET; THENCE NORTH 19°03'01" WEST 20.00 FEET; THENCE NORTH 70°56'52" EAST 100.01 FEET; THENCE SOUTH 19°02'36" EAST 20.00 FEET; THENCE NORTH 70°56'52" EAST 97.01 FEET TO THE POINT OF BEGINNING.

PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED SEPTEMBER 17, 2021 AS INSTRUMENT NO. 2021-0658695 OFFICIAL RECORDS.

APN: 562-252-45-00

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

APN 562-252-45-00

**PERFORMANCE DEED OF TRUST
(200 East 31st Street)**

THIS DEED OF TRUST is dated as of the ___ day of _____, 2023, between KD Cove, LLC, a California limited liability company (“Trustor”), whose address is 10625 Scripps Ranch Blvd. Suite F, San Diego, CA 92131, Chicago 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, following an uncured default beyond any applicable cure period in the Agreement, 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 further 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 Property, 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 this Deed of Trust 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 at least 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's agent executing this Deed of Trust, 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:

KD Cove, LLC.
a California limited liability company

By: KIRE Homes III, LLC
a California limited liability company

By: Santa Re Family Investments, L.P.
a California Limited Partnership
Its: Managing Member

By: Santa Re, Inc.
a California Corporation
Its: General Partner

By: 
Joshua Santa
Its: President

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 October 24, 2023, ~~2022~~, before me, Gina Patel, notary Public, notary public, personally appeared Joshua Santa 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

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCELS 1 AND 2 OF PARCEL MAP NO. 10843, IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 31, 1980, TOGETHER WITH THE WESTERLY 100 FEET OF THE EASTERLY 197 FEET OF THE NORTHERLY 100 FEET OF THE WESTERLY HALF OF THE EASTERLY HALF OF 10 ACRE LOT 8, QUARTER SECTION 152 OF THE RANCHO DE LA NACION, IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP NO. 166, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MAY 11, 1869, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF PARCEL 2 OF SAID PARCEL MAP NO. 10843; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 2, SOUTH 19°02'42" EAST 310.17 FEET TO THE SOUTHERLY LINE OF SAID PARCEL MAP NO. 10843; THENCE ALONG SAID SOUTHERLY LINE SOUTH 70°58'32" WEST 332.25 FEET TO THE EASTERLY LINE OF THE WESTERLY HALF OF LOT 8 OF QUARTER SECTION 152 PER MAP NO. 166; THENCE ALONG SAID EASTERLY LINE NORTH 19°02'08" WEST 310.01 FEET TO THE SOUTHERLY LINE OF 31ST STREET; THENCE ALONG SAID SOUTHERLY LINE NORTH 70°56'52" EAST 135.18 FEET; THENCE NORTH 19°03'01" WEST 20.00 FEET; THENCE NORTH 70°56'52" EAST 100.01 FEET; THENCE SOUTH 19°02'36" EAST 20.00 FEET; THENCE NORTH 70°56'52" EAST 97.01 FEET TO THE POINT OF BEGINNING.

PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED SEPTEMBER 17, 2021 AS INSTRUMENT NO. 2021-0658695 OFFICIAL RECORDS.

APN: 562-252-45-00

No Fees per Government Code 6103

Recording Requested By:

When Recorded Mail To:

National City Housing Authority
Attention: Executive Director
1243 National City Boulevard
National City, CA 91950

APN 562-252-45-00

**SUBORDINATION AGREEMENT
(200 E 31st Street)**

THIS SUBORDINATION AGREEMENT (“Subordination Agreement”) is dated as of the 14th day of October, 2023, by the City of National City (“City”), and KD Cove, LLC, a California limited liability company (“Developer”) and NIKOLS Mortgage Fund, LLC (“Lender”).

RECITALS

A. Borrower is the owner of certain real property generally located at 200 E 31st Street, in the City of National City, County of San Diego, California (“Property”), as more particularly described in that certain Deed of Trust dated as of January 26, 2022, and recorded in the Office of the Recorder of the County of San Diego, State of California on January 26, 2022, as Instrument No. 2022-0038024 (“Lender Deed of Trust”).

B. Concurrently with recordation of this Subordination Agreement, Borrower is causing the following to be recorded against the Property in the Office of the Recorder of the County of San Diego, State of California: (i) an Affordable Housing Density Bonus Agreement (200 E 31st Street) (“Density Bonus Agreement”) by and between the City and Borrower; and (ii) a Performance Deed of Trust (“City Deed of Trust”) executed by the Borrower in favor of the City.

C. City, Lender, and Borrower all agree and desire to execute this Subordination Agreement to memorialize their understanding and agreement with regard to the respective priorities of each of the above-referenced documents. It is the intention of the parties that the Density Bonus Agreement shall unconditionally be and remain at all times a lien, claim, and charge on the Property prior and superior to the Lender Deed of Trust and that the Lender Deed of Trust shall unconditionally be and remain at all times a lien, claim and charge on the Property prior and superior to the City Deed of Trust.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the City, Lender and Borrower hereby agree as follows:

6. Governing Law. This Subordination Agreement is governed by, and shall be construed in accordance with, the laws of the State of California.

7. Counterparts. This Subordination Agreement may be executed in counterparts, and all counterparts constitute but one and the same document.

8. Signatures. All individuals signing this Subordination 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 one another 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.

IN WITNESS WHEREOF, the parties have executed this Subordination Agreement as of the date first set forth above and agree to be bound hereby.

LENDER:

NIKOLS MORTGAGE FUND, LLC,
a California limited liability company

By: THE NIKOLS COMPANY
a California corporation
its manager

By: 
Carrie W. Nikols, Chief Executive Officer

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

BORROWER:

KD Cove, LLC.

a California limited liability company

By: KIRE Homes III, LLC
a California limited liability company

By: Santa Re Family Investments, L.P.
a California Limited Partnership
Its: Managing Member

By: Santa Re, Inc.
a California Corporation
Its: General Partner

By: 
Joshua Santa

Its: President

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

CITY:
City of National City

By: _____
Ben Martinez, Interim City Manager

APPROVED AS TO FORM:
Barry J. Schultz, City Attorney

By: _____
Barry J. Schultz
City Attorney

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.

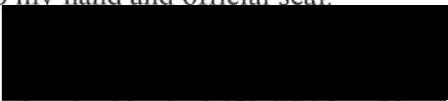

State of California)

County of ~~San Diego~~ ^{ORANGE})

On October 24, 2023, before me, Morgan Harris Rommel, notary public, personally appeared Carrie W. Wikols, 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 




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 October 24, 2023, ~~2022~~, before me, Gina Patel, notary public, personally appeared Joshua Santa, 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 _____, 2022, 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)

RESOLUTION NO. 2023-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, APPROVING AN AFFORDABLE HOUSING DENSITY BONUS AGREEMENT AND RELATED DOCUMENTS WITH KD COVE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AND RESTRICTING THE RENT AND OCCUPANCY OF FIVE UNITS TO VERY-LOW-INCOME HOUSEHOLDS IN EXCHANGE FOR ONE INCENTIVE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTIONS 65915–65918 FOR THE DEVELOPMENT OF 92 HOUSING UNITS LOCATED AT 200 E 31ST STREET IN NATIONAL CITY.”

WHEREAS, KD Cove, LLC, a California Limited Partnership (“Developer”), is developing the property located at 200 E 31st Street; and

WHEREAS, the current zoning allows for the construction of 113 units by right and the developer has requested a density bonus; and

WHEREAS, the Developer agreed to restrict the rent and occupancy of five units (“Affordable Units”) to very low-income households below 50% of the area median income; and

WHEREAS, in exchange for the Affordable Units, the Developer is allowed four incentives, pursuant to California Government Code Section 65915-65918; and

WHEREAS, the incentive the Developer selected to remove is the private open space requirements for the project; and

WHEREAS, the Developer agreed to enter into an Affordable Density Housing Bonus Agreement (“Agreement”) to memorialize the Developer’s obligation to provide the five (5) affordable units; and

WHEREAS, the Agreement provides a time frame for the construction and occupancy of the Affordable Units and will be recorded to assure affordability for fifty-five (55) years; and

WHEREAS, the Developer agreed to enter into a Deed of Trust (“Trust”) to be recorded to secure the property and ensure the timely performance of the Affordable Housing Density Bonus Agreement; and

WHEREAS, the Developer also agreed to enter into a Subordination Agreement for the Agreement to be recorded against the Property by the Developer in favor of the City.

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

Section 1: The City Council hereby approves the Affordable Housing Density Bonus Agreement with KD Cove, LLC, restricting the rent and occupancy of five (5) units to very low-income households in exchange for one incentive pursuant to California Government Code Sections 65915–65918 for the development of 92 housing units located at 200 E 31st Street in National City. The incentive selected is to remove the private open space requirements for the project.

Section 2: The City Council hereby approves the Deed of Trust with KD Cove, LLC for the property located at 200 E 31st Street in National City.

Section 3: The City Council also hereby approves a Subordination Agreement to be recorded against the Property by the Developer in favor of the City.

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 21st day of November 2023.

Ron Morrison, Mayor

ATTEST:

Shelley Chapel, MMC, City Clerk

APPROVED AS TO FORM:

Barry J. Schultz, City Attorney



AGENDA REPORT

Department: Administrative Services - Finance
Prepared by: Kecia Carrasco, Accountant
Meeting Date: Tuesday, November 21, 2023
Approved by: Ben Martinez, Interim City Manager

SUBJECT:

Investment Report for the Quarter Ended September 30, 2023.

RECOMMENDATION:

Accept and File the Investment Report for the Quarter Ended September 30, 2023.

BOARD/COMMISSION/COMMITTEE PRIOR ACTION:

Not Applicable.

EXPLANATION:

The California Government Code (§53646(b)) requires that, when the Treasurer or the Chief Fiscal Officer of a local agency renders to the legislative body of the agency a quarterly report on the agency’s investment portfolio, such report shall include the following information regarding all securities, investments, and moneys held by the local agency:

- type of investment;
- issuer (bank or institution);
- date of maturity;
- dollar amount invested; and
- current market valuation as of the date of the report.

In addition, the Government Code (§53646(b)(2)) requires that the report state the City’s compliance with its investment policy and include a statement regarding the ability of the local agency to meet its pool’s ability to meet its expenditure requirements Code (§53646(b)(3)).

OVERVIEW OF CITY INVESTMENTS

The City’s pooled investment portfolio balance as of September 30, 2023, is summarized below and compared to the balance as of September 30, 2022.

Table 1

	9/30/2023	9/30/2022
Book Value ¹	\$ 123,135,650	\$ 116,823,818
Market Value ²	\$ 119,892,996	\$ 111,966,264

¹ actual cost of investments

² amount at which the investments could be sold

The assets of the City of National City’s investment portfolio are managed by Chandler Asset Management, the California Treasurer’s Local Agency Investment Fund (LAIF) that represents the largest portion of the assets with 39.5%, and the San Diego County Treasurer’s Pooled Money

Fund (“San Diego County Pool”). The San Diego County Pool and LAIF are liquid investment pools that allow participants to earn market-rate returns while retaining access to funds within 24 to 48 hours of a withdrawal request with no penalty. The City’s assets managed by Chandler Asset Management may be liquidated and withdrawn at any time. However, these investments likely do not provide the short liquidity (i.e., quick access to funds) of the pooled money funds, and liquidation of these investments is at the risk of loss and/or penalty to the City.

Summaries of the City’s investment portfolio are illustrated below.

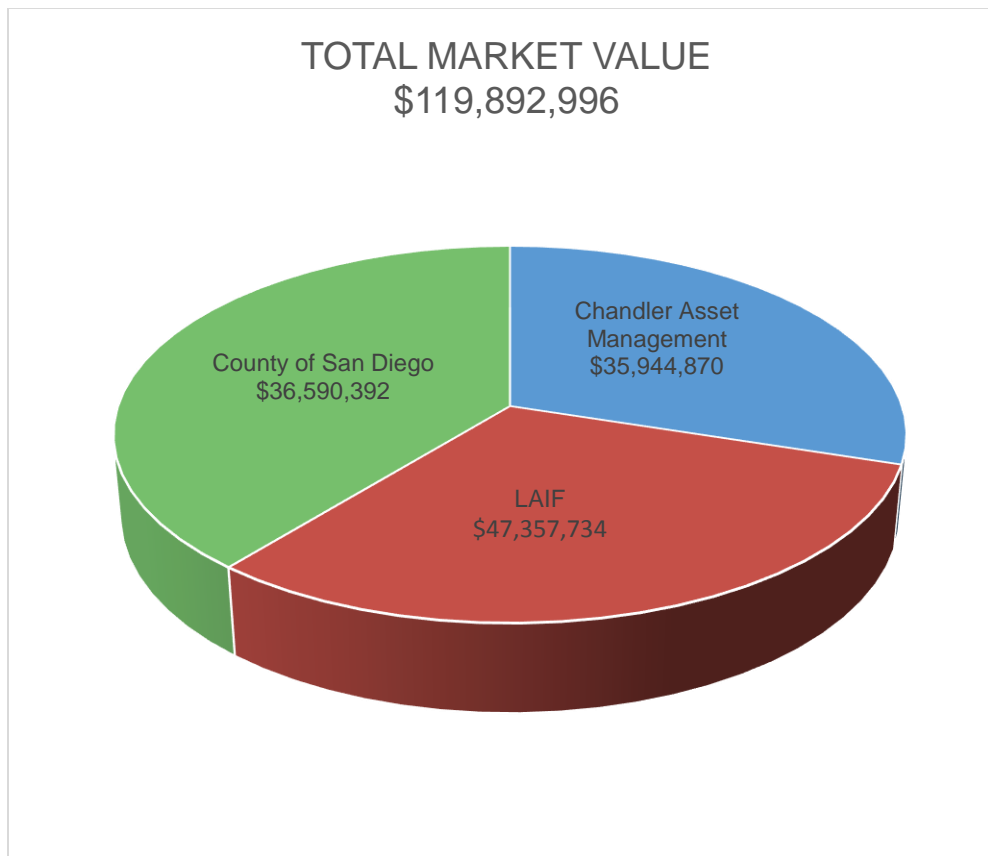
INVESTMENT PORTFOLIO SUMMARY BY ISSUER/MANAGER As of September 30, 2023

Table 2

Issuer/Manager	Book Value	Total Market Value ¹	Market YTM	% of Portfolio
Chandler Asset Management	37,868,818	35,944,870	5.16%	29.98%
County of San Diego	37,686,677	36,590,392	3.51%	30.52%
Local Agency Investment Fund	47,580,155	47,357,734 ²	3.53%	39.50%
Totals for September 30, 2023	\$123,135,650	\$119,892,996		100.00%

¹ includes accrued interest

² includes LAIF participation factor of 0.986307739



INVESTMENT PERFORMANCE BY ISSUER/MANAGER

For the Quarter Ended September 30, 2023

Table 3 Total Market Value¹

Issuer/Manager	9/30/2023	6/30/23	Change	Period Return	Yield (Net) ²
Chandler Asset Management	\$35,944,870	\$35,871,929	\$72,941	0.21%	NA
County of San Diego	\$36,590,392	\$37,209,041	(\$618,649)	-1.68%	-6.54%
Local Agency Investment Fund	\$47,357,734	\$46,863,917	\$493,817	0.90%	3.66%
Totals for September 30, 2023	\$119,892,996	\$119,944,887	(\$51,891)	-0.09% ³	

¹ includes accrued interest

² annualized

³ weighted

Economic Update:

“Recent economic data continues to suggest positive but below-trend growth this year. Labor markets remain solid, and the U.S. consumer has demonstrated resiliency. Inflationary trends are subsiding, but core levels remain well above the Fed’s target. Given the cumulative effects of restrictive monetary policy and tighter financial conditions, we believe the economy will gradually soften and the Fed will remain data-dependent as they tread cautiously going forward.

As anticipated at the September meeting, the Federal Open Market Committee voted unanimously to maintain the target Federal Funds at the range of 5.25 - 5.50%. The Fed’s Summary of Economic Projections (SEP) also revealed expectations of higher economic growth, reduced unemployment, and a gradual easing of inflation compared to earlier forecasts. The Fed is continuing to focus on achieving price stability and bringing inflation down toward their 2% policy objective while leaving the option open for the possibility of additional rate hikes in the future if needed.

The yield curve remained inverted in September. The 2-year Treasury yield increased 18 basis points to 5.05%, the 5-year Treasury yield rose 36 basis points to 4.61%, and the 10-year Treasury yield increased 46 basis points to 4.57%. The inversion between the 2-year Treasury yield and 10-year Treasury yield narrowed to -48 basis points at September month-end versus -76 basis points at August month-end. The spread between the 2-year Treasury and 10-year Treasury yield one year ago was -45 basis points. The inversion between 3-month and 10-year Treasuries narrowed to -88 basis points in September from -134 basis points in August. The shape of the yield curve indicates that the probability of recession persists.”¹

COMPLIANCE STATEMENT

All of the City’s investments are in compliance with the City’s investment policy (City Council Policy No. 203) and the California Government Code (§53601 et seq).

¹ September 30, 2023 Chandler Asset Management Quarterly Investment Report

FINANCIAL STATEMENT:

Realized gains for the period, reflected below, were \$802,895. These changes include changes in security market values, gain or loss from the sale of assets, accrued interest, and reinvested interest/earnings.

Table 4

Issuer/Manager	Gain/(Loss)
Chandler Asset Management	\$ 71,399
County of San Diego	302,437
LAIF	429,059
Totals for September 30, 2023	\$ 802,895

The difference between the changes reflected in the previous two tables is attributable to the purchase and sale of securities for which the first of the tables accounts but the second table typically does not (unless an investment is sold before maturity).

STAFF CERTIFICATION

Staff certifies that there are sufficient funds to meet the pool’s expenditure requirements.

RELATED CITY COUNCIL 2020-2025 STRATEGIC PLAN GOAL:

Balanced Budget and Economic Development

ENVIRONMENTAL REVIEW:

This is not a project under CEQA and is therefore not subject to environmental review. CCR15378; PRC 21065.

PUBLIC NOTIFICATION:

Agenda Report posted within 72 hours of meeting date and time in accordance with Brown Act.

ORDINANCE:

Not Applicable

EXHIBIT:

Exhibit A – 2023-0930 Investment Reports



City of National City

MONTHLY ACCOUNT STATEMENT

SEPTEMBER 1, 2023 THROUGH SEPTEMBER 30, 2023

Chandler Team:

For questions about your account, please call (800) 317-4747,
or contact operations@chandlerasset.com

Custodian

Bank of New York Mellon
Lauren Dehner
(904) 645-1918

CHANDLER ASSET MANAGEMENT
chandlerasset.com

Information contained herein is confidential. We urge you to compare this statement to the one you receive from your qualified custodian. Please see Important Disclosures.



PORTFOLIO CHARACTERISTICS

Average Modified Duration	2.48
Average Coupon	2.36%
Average Purchase YTM	2.34%
Average Market YTM	5.16%
Average S&P/Moody Rating	AA/Aa1
Average Final Maturity	2.78 yrs
Average Life	2.69 yrs

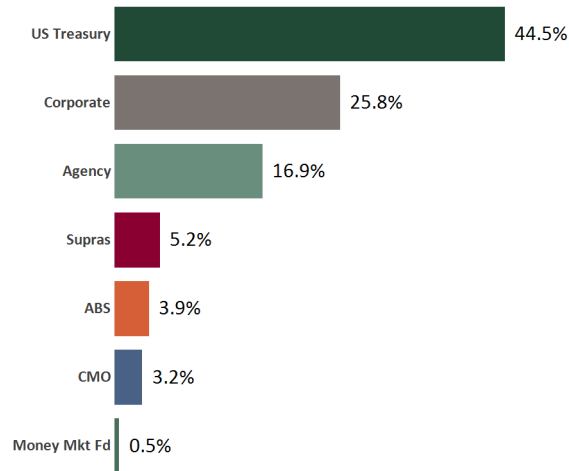
ACCOUNT SUMMARY

	Beg. Values as of 8/31/23	End Values as of 9/30/23
Market Value	35,880,830	35,795,558
Accrued Interest	189,661	149,312
Total Market Value	36,070,491	35,944,870
Income Earned	67,580	71,399
Cont/WD		0
Par	37,737,974	37,821,368
Book Value	37,802,232	37,868,818
Cost Value	37,802,232	37,868,818

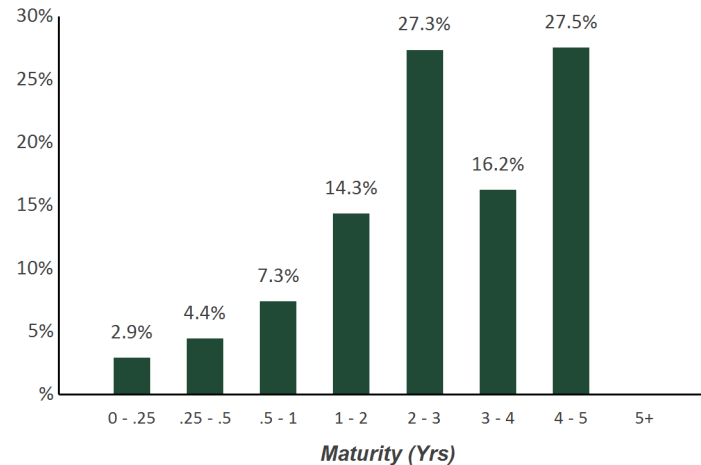
TOP ISSUERS

Government of United States	44.5%
Federal Home Loan Bank	10.4%
Federal Home Loan Mortgage Corp	6.0%
Intl Bank Recon and Development	2.1%
Federal Farm Credit Bank	2.0%
Deere & Company	1.9%
Apple Inc	1.8%
International Finance Corp	1.7%
Total	70.4%

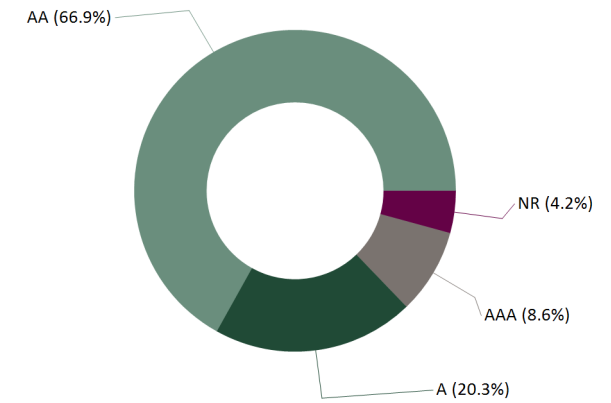
SECTOR ALLOCATION



MATURITY DISTRIBUTION



CREDIT QUALITY (S&P)



PERFORMANCE REVIEW

TOTAL RATE OF RETURN	Annualized									
	1M	3M	YTD	1YR	2YRS	3YRS	5YRS	10YRS	2/29/2012	
City of National City	-0.35%	0.21%	1.48%	2.53%	-1.87%	-1.21%	0.87%	0.81%	0.77%	
ICE BofA 1-5 Yr US Treasury & Agency Index*	-0.34%	0.24%	1.19%	2.14%	-2.34%	-1.56%	0.61%	0.59%	0.58%	

*ICE BofA 1-3 Yr US Treasury & Agency Index to 12/31/2021

Statement of Compliance

As of September 30, 2023



City of National City

Assets managed by Chandler Asset Management are in full compliance with state law and with the City's investment policy.

Category	Standard	Comment
U.S. Treasuries	No limitation; Full faith and credit of the U.S. are pledged for the payment of principal and interest	Complies
Federal Agencies	No Limitation; Federal agencies or U.S. government-sponsored enterprise obligations, participations, or other instruments, including those issued or fully guaranteed as to principal and interest by federal agencies or U.S. government sponsored enterprises.	Complies
Supranational Obligations	"AA" rating category or higher by a NRSRO; 30% max; 10% max per issuer; U.S. dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by IBRD, IFC, IADB	Complies
Municipal Securities	"A" rating category or better by two NRSROs; 30% max; 5% max per issuer; Include bonds of the City, the State of California, any other state, and any local agency within the State of California; Bonds will be registered in the name of the City or held under a custodial agreement at a bank.	Complies
Corporate Medium Term Notes	"A" rating category or better by at least two NRSROs; 30% max; 5% max per issuer; Issued by corporations organized and operating within the U.S. or by depository institutions licensed by U.S. or any state and operating within the U.S.	Complies
Mortgage Pass-throughs, Asset Backed Securities, and Collateralized Mortgage Obligations	"AA" rating category or better by a NRSRO; 20% max	Complies
Negotiable Certificates of Deposit	"A" long-term debt rated or higher by at least two NRSROs; and/or "A1" short-term debt rated or higher by at least two NRSROs; 30% max (including CDARS); 5% max per issuer	Complies
Certificate of Deposit Placement Service (CDARS)	30% max (combination of Certificates of Deposit, including CDARS)	Complies
FDIC insured Time Deposits/ Certificates of Deposit	Non-Negotiable Certificates of Deposit in state or federally chartered banks, savings and loans, or credit unions; The amount per institution is limited to maximum covered under FDIC; 30% max combined certificates of deposit including CDARS	Complies
Banker's Acceptances	"A-1" short-term debt rated or higher by at least two NRSROs; and "A" long-term debt rated by two NRSROs; 40% max; 5% max per issuer; 180 days max maturity	Complies
Commercial Paper	"A-1" short-term rated or higher by at least two NRSROs; and "A" long-term debt rated by two NRSROs; 25% max; 5% max per issuer; 270 days max maturity; Issuer is a corporation organized and operating in the U.S. with assets > \$500 million	Complies
Money Market Mutual Funds	20% max in Money Market Mutual Funds; Registered with SEC under Investment Company Act of 1940 and funds meet either of the following criteria: (i) Highest rating by two NRSROs; or (ii) Retained an investment adviser registered or exempt from SEC registration with > 5 years experience managing money market mutual funds with AUM >\$500 million	Complies
Local Agency Investment Fund (LAIF)	Maximum permitted amount in LAIF; Not used by investment adviser	Complies
Local Government Investment Pool (LGIP)	San Diego County Investment Pool	Complies
Prohibited Securities	Any investment not specifically described in the policy; Inverse floaters; Ranges notes, Mortgage-derived interest-only strips; Zero interest accrual securities if held to maturity; Trading securities for the sole purpose of speculating on the future direction of interest rates; Purchasing or selling securities on margin; Reverse repurchase agreements; Securities lending or any other form of borrowing or leverage; Foreign currency denominated securities	Complies
Callable Securities	20% maximum (does not include "make whole call" securities)	Complies
Maximum Issuer	5% max per issuer, except as noted in Section VIII of the investment policy	Complies
Duration	Approximately equal to duration of the benchmark	Complies
Maximum maturity	5 years	Complies

Reconciliation Summary

As of September 30, 2023



BOOK VALUE RECONCILIATION		
BEGINNING BOOK VALUE		\$37,802,231.50
Acquisition		
+ Security Purchases	\$1,927,963.67	
+ Money Market Fund Purchases	\$1,151,019.08	
+ Money Market Contributions	\$0.00	
+ Security Contributions	\$0.00	
+ Security Transfers	\$0.00	
Total Acquisitions		\$3,078,982.75
Dispositions		
- Security Sales	\$1,734,609.90	
- Money Market Fund Sales	\$1,144,736.84	
- MMF Withdrawals	\$0.00	
- Security Withdrawals	\$0.00	
- Security Transfers	\$0.00	
- Other Dispositions	\$0.00	
- Maturities	\$0.00	
- Calls	\$0.00	
- Principal Paydowns	\$87,887.94	
Total Dispositions		\$2,967,234.68
Amortization/Accretion		
+/- Net Accretion	\$0.00	
		\$0.00
Gain/Loss on Dispositions		
+/- Realized Gain/Loss	(\$45,161.21)	
		(\$45,161.21)
ENDING BOOK VALUE		\$37,868,818.36

CASH TRANSACTION SUMMARY		
BEGINNING BALANCE		\$182,415.27
Acquisition		
Contributions	\$0.00	
Security Sale Proceeds	\$1,734,609.90	
Accrued Interest Received	\$3,082.79	
Interest Received	\$116,117.36	
Dividend Received	\$852.17	
Principal on Maturities	\$0.00	
Interest on Maturities	\$0.00	
Calls/Redemption (Principal)	\$0.00	
Interest from Calls/Redemption	\$0.00	
Principal Paydown	\$87,887.94	
Total Acquisitions	\$1,942,550.16	
Dispositions		
Withdrawals	\$0.00	
Security Purchase	\$1,927,963.67	
Accrued Interest Paid	\$8,304.25	
Total Dispositions	\$1,936,267.92	
ENDING BOOK VALUE		\$188,697.51

Income Earned
As of September 30, 2023



CUSIP	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
FIXED INCOME						
023135BW5	Amazon.com Inc Note 0.45% Due 05/12/2024	05/10/2021 05/12/2021 255,000.00	254,627.70 0.00 0.00 254,627.70	347.44 0.00 443.06 95.62	0.00 0.00 0.00 95.62	95.62
023135CF1	Amazon.com Inc Callable Note Cont 3/13/2027 3.3% Due 04/13/2027	04/11/2022 04/13/2022 205,000.00	204,577.70 0.00 0.00 204,577.70	2,593.25 0.00 3,157.00 563.75	0.00 0.00 0.00 563.75	563.75
037833EB2	Apple Inc Callable Note Cont 1/8/2026 0.7% Due 02/08/2026	01/13/2022 01/18/2022 700,000.00	677,908.00 0.00 0.00 677,908.00	313.06 0.00 721.39 408.33	0.00 0.00 0.00 408.33	408.33
05601XAC3	BMW Vehicle Lease Trust 2022-1 A3 1.1% Due 03/25/2025	01/11/2022 01/19/2022 64,704.98	76,391.52 0.00 11,696.21 64,695.31	14.01 70.04 11.86 67.89	0.00 0.00 0.00 67.89	67.89
06368FAC3	Bank of Montreal Note 1.25% Due 09/15/2026	11/18/2021 11/22/2021 500,000.00	491,120.00 0.00 0.00 491,120.00	2,881.94 3,125.00 277.78 520.84	0.00 0.00 0.00 520.84	520.84
06406RAX5	Bank of NY Mellon Corp Callable Note Cont 9/25/2024 0.85% Due 10/25/2024	12/15/2021 12/17/2021 500,000.00	495,325.00 0.00 0.00 495,325.00	1,487.50 0.00 1,841.67 354.17	0.00 0.00 0.00 354.17	354.17
084664CZ2	Berkshire Hathaway Callable Note Cont 2/15/2027 2.3% Due 03/15/2027	03/07/2022 03/15/2022 430,000.00	429,918.30 0.00 0.00 429,918.30	4,560.39 4,945.00 439.56 824.17	0.00 0.00 0.00 824.17	824.17
09690AAC7	BMW Vehicle Lease Trust 2021-2 A3 0.33% Due 12/26/2024	09/08/2021 09/15/2021 18,976.63	28,225.40 0.00 9,250.73 18,974.67	1.55 7.76 1.04 7.25	0.00 0.00 0.00 7.25	7.25
14913R2L0	Caterpillar Financial Service Note 0.45% Due 05/17/2024	05/10/2021 05/17/2021 405,000.00	404,457.30 0.00 0.00 404,457.30	526.50 0.00 678.38 151.88	0.00 0.00 0.00 151.88	151.88

Income Earned
As of September 30, 2023



CUSIP	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
161571HT4	Chase Issuance Trust 23-A1 A 5.16% Due 09/15/2028	09/07/2023 09/15/2023 395,000.00	0.00 394,890.51 0.00 394,890.51	0.00 0.00 905.87 905.87	0.00 0.00 0.00 905.87	905.87
24422EUR8	John Deere Capital Corp Note 3.45% Due 01/10/2024	03/14/2019 03/18/2019 400,000.00	408,860.00 0.00 0.00 408,860.00	1,955.00 0.00 3,105.00 1,150.00	0.00 0.00 0.00 1,150.00	1,150.00
24422EVN6	John Deere Capital Corp Note 0.45% Due 01/17/2024	03/01/2021 03/04/2021 275,000.00	274,804.75 0.00 0.00 274,804.75	151.25 0.00 254.38 103.13	0.00 0.00 0.00 103.13	103.13
3130A0F70	FHLB Note 3.375% Due 12/08/2023	01/30/2019 01/31/2019 525,000.00	540,734.25 0.00 0.00 540,734.25	4,085.16 0.00 5,561.72 1,476.56	0.00 0.00 0.00 1,476.56	1,476.56
3130A1XJ2	FHLB Note 2.875% Due 06/14/2024	Various Various 580,000.00	605,009.60 0.00 0.00 605,009.60	3,566.60 0.00 4,956.18 1,389.58	0.00 0.00 0.00 1,389.58	1,389.58
3130A2UW4	FHLB Note 2.875% Due 09/13/2024	10/29/2019 10/30/2019 300,000.00	315,474.00 0.00 0.00 315,474.00	4,025.00 4,312.50 431.25 718.75	0.00 0.00 0.00 718.75	718.75
3130ATS57	FHLB Note 4.5% Due 03/10/2028	Various Various 900,000.00	923,373.00 0.00 0.00 923,373.00	19,237.50 20,250.00 2,362.50 3,375.00	0.00 0.00 0.00 3,375.00	3,375.00
3130AWN63	FHLB Note 4% Due 06/30/2028	07/13/2023 07/14/2023 720,000.00	718,084.80 0.00 0.00 718,084.80	3,760.00 0.00 6,160.00 2,400.00	0.00 0.00 0.00 2,400.00	2,400.00
3130AWTR1	FHLB Note 4.375% Due 09/08/2028	09/12/2023 09/14/2023 750,000.00	0.00 746,200.50 0.00 746,200.50	0.00 (3,645.83) 5,195.31 1,549.48	0.00 0.00 0.00 1,549.48	1,549.48

As of September 30, 2023



CUSIP	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
3133EPSW6	FFCB Note 4.5% Due 08/14/2026	08/09/2023 08/14/2023 725,000.00	723,332.50 0.00 0.00 723,332.50	1,540.63 0.00 4,259.38 2,718.75	0.00 0.00 0.00 2,718.75	2,718.75
3135G06H1	FNMA Note Due 11/27/2023	11/23/2020 11/25/2020 0.00	579,338.80 0.00 579,338.80 0.00	378.61 426.94 0.00 48.33	0.00 0.00 0.00 48.33	48.33
3135G0X24	FNMA Note 1.625% Due 01/07/2025	01/16/2020 01/17/2020 625,000.00	623,050.00 0.00 0.00 623,050.00	1,523.44 0.00 2,369.79 846.35	0.00 0.00 0.00 846.35	846.35
3137EAEP0	FHLMC Note 1.5% Due 02/12/2025	06/04/2020 06/05/2020 625,000.00	652,443.75 0.00 0.00 652,443.75	494.79 0.00 1,276.04 781.25	0.00 0.00 0.00 781.25	781.25
3137EAEX3	FHLMC Note 0.375% Due 09/23/2025	09/24/2020 09/25/2020 450,000.00	448,857.00 0.00 0.00 448,857.00	740.63 843.75 37.50 140.62	0.00 0.00 0.00 140.62	140.62
3137FETN0	FHLMC K073 A2 3.35% Due 01/25/2028	07/10/2023 07/13/2023 190,000.00	179,891.41 0.00 0.00 179,891.41	106.08 530.42 106.08 530.42	0.00 0.00 0.00 530.42	530.42
3137FG6X8	FHLMC K077 A2 3.85% Due 05/25/2028	05/24/2023 05/30/2023 720,000.00	706,781.25 0.00 0.00 706,781.25	462.00 2,310.00 462.00 2,310.00	0.00 0.00 0.00 2,310.00	2,310.00
3137FGZT5	FHLMC K079 A2 3.926% Due 06/25/2028	07/10/2023 07/13/2023 300,000.00	290,332.03 0.00 0.00 290,332.03	981.50 981.50 981.50 981.50	0.00 0.00 0.00 981.50	981.50
43813GAC5	Honda Auto Receivables Trust 2021-1 A3 0.27% Due 04/21/2025	02/17/2021 02/24/2021 22,265.61	25,550.25 0.00 3,285.04 22,265.21	1.92 5.75 1.67 5.50	0.00 0.00 0.00 5.50	5.50

Income Earned
As of September 30, 2023



CUSIP	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
43813KAC6	Honda Auto Receivables Trust 2020-3 A3 0.37% Due 10/18/2024	09/22/2020 09/29/2020 29,708.28	38,789.25 0.00 9,085.33 29,703.92	5.18 11.96 3.97 10.75	0.00 0.00 0.00 10.75	10.75
43815BAC4	Honda Auto Receivables Trust 2022-1 A3 1.88% Due 05/15/2026	02/15/2022 02/23/2022 195,000.00	194,970.67 0.00 0.00 194,970.67	162.93 305.50 162.93 305.50	0.00 0.00 0.00 305.50	305.50
43815GAC3	Honda Auto Receivables Trust 2021-4 A3 0.88% Due 01/21/2026	11/16/2021 11/24/2021 102,856.71	109,882.80 0.00 7,047.78 102,835.02	26.87 80.60 25.14 78.87	0.00 0.00 0.00 78.87	78.87
438516CJ3	Honeywell Intl Callable Note Cont 01/15/2028 4.95% Due 02/15/2028	02/13/2023 02/15/2023 450,000.00	460,093.50 0.00 0.00 460,093.50	990.00 0.00 2,846.25 1,856.25	0.00 0.00 0.00 1,856.25	1,856.25
4581X0DZ8	Inter-American Dev Bank Note 0.5% Due 09/23/2024	09/15/2021 09/23/2021 505,000.00	504,626.30 0.00 0.00 504,626.30	1,108.19 1,262.50 56.11 210.42	0.00 0.00 0.00 210.42	210.42
459058GQ0	Intl. Bank Recon & Development Note 2.5% Due 03/19/2024	01/26/2021 01/28/2021 450,000.00	481,473.00 0.00 0.00 481,473.00	5,062.50 5,625.00 375.00 937.50	0.00 0.00 0.00 937.50	937.50
459058JM6	Intl. Bank Recon & Development Note 0.25% Due 11/24/2023	11/17/2020 11/24/2020 320,000.00	319,312.00 0.00 0.00 319,312.00	215.56 0.00 282.22 66.66	0.00 0.00 0.00 66.66	66.66
45950KCR9	International Finance Corp Note 1.375% Due 10/16/2024	07/12/2021 07/14/2021 300,000.00	308,070.00 0.00 0.00 308,070.00	1,546.88 0.00 1,890.63 343.75	0.00 0.00 0.00 343.75	343.75
45950KDD9	International Finance Corp Note 4.5% Due 07/13/2028	07/06/2023 07/13/2023 330,000.00	329,633.70 0.00 0.00 329,633.70	1,980.00 0.00 3,217.50 1,237.50	0.00 0.00 0.00 1,237.50	1,237.50



CUSIP	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
46625HRY8	JP Morgan Chase Callable Note 1X 2/1/2027 3.782% Due 02/01/2028	06/13/2023 06/15/2023 450,000.00	426,834.00 0.00 0.00 426,834.00	1,418.25 0.00 2,836.50 1,418.25	0.00 0.00 0.00 1,418.25	1,418.25
47787JAC2	John Deere Owner Trust 2022-A A3 2.32% Due 09/16/2026	03/10/2022 03/16/2022 150,000.00	149,966.82 0.00 0.00 149,966.82	154.67 290.00 154.67 290.00	0.00 0.00 0.00 290.00	290.00
47787NAC3	John Deere Owner Trust 2020-B A3 0.51% Due 11/15/2024	07/14/2020 07/22/2020 1,760.34	3,343.19 0.00 1,583.12 1,760.07	0.76 1.42 0.40 1.06	0.00 0.00 0.00 1.06	1.06
47788UAC6	John Deere Owner Trust 2021-A A3 0.36% Due 09/15/2025	03/02/2021 03/10/2021 49,692.23	54,873.04 0.00 5,190.36 49,682.68	8.78 16.47 7.95 15.64	0.00 0.00 0.00 15.64	15.64
47789QAC4	John Deere Owner Trust 2021-B A3 0.52% Due 03/16/2026	07/13/2021 07/21/2021 99,672.27	104,891.79 0.00 5,228.41 99,663.38	24.24 45.46 23.04 44.26	0.00 0.00 0.00 44.26	44.26
47800AAC4	John Deere Owner Trust 2022-B A3 3.74% Due 02/16/2027	07/12/2022 07/20/2022 155,000.00	154,985.20 0.00 0.00 154,985.20	257.64 483.08 257.64 483.08	0.00 0.00 0.00 483.08	483.08
57636QAW4	MasterCard Inc Callable Note Cont 2/9/28 4.875% Due 03/09/2028	03/06/2023 03/09/2023 225,000.00	224,781.75 0.00 0.00 224,781.75	5,240.63 5,484.38 670.31 914.06	0.00 0.00 0.00 914.06	914.06
58769KAD6	Mercedes-Benz Auto Lease Trust 2021-B A3 0.4% Due 11/15/2024	06/22/2021 06/29/2021 60,729.08	75,605.06 0.00 14,880.57 60,724.49	13.44 25.20 10.80 22.56	0.00 0.00 0.00 22.56	22.56
58933YBH7	Merck & Co Callable Note Cont 4/17/2028 4.05% Due 05/17/2028	05/08/2023 05/17/2023 105,000.00	104,914.95 0.00 0.00 104,914.95	1,228.50 0.00 1,582.88 354.38	0.00 0.00 0.00 354.38	354.38



CUSIP	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
61747YET8	Morgan Stanley Callable Note Cont 7/17/2025 4.679% Due 07/17/2026	07/18/2022 07/20/2022 205,000.00	205,000.00 0.00 0.00 205,000.00	1,172.35 0.00 1,971.68 799.33	0.00 0.00 0.00 799.33	799.33
665859AW4	Northern Trust Company Callable Note Cont 4/10/2027 4% Due 05/10/2027	09/28/2022 09/30/2022 500,000.00	485,540.00 0.00 0.00 485,540.00	6,166.67 0.00 7,833.33 1,666.66	0.00 0.00 0.00 1,666.66	1,666.66
69371RR40	Paccar Financial Corp Note 0.5% Due 08/09/2024	08/03/2021 08/09/2021 155,000.00	154,916.30 0.00 0.00 154,916.30	47.36 0.00 111.94 64.58	0.00 0.00 0.00 64.58	64.58
74340XCG4	Prologis LP Callable Note Cont 5/15/2028 4.875% Due 06/15/2028	06/26/2023 06/28/2023 115,000.00	114,297.35 0.00 0.00 114,297.35	981.09 0.00 1,448.28 467.19	0.00 0.00 0.00 467.19	467.19
78015K7H1	Royal Bank of Canada Note 1.15% Due 06/10/2025	11/16/2021 11/18/2021 500,000.00	496,035.00 0.00 0.00 496,035.00	1,293.75 0.00 1,772.92 479.17	0.00 0.00 0.00 479.17	479.17
79466LAG9	Salesforce.com Inc Callable Note Cont 7/15/2022 0.625% Due 07/15/2024	06/29/2021 07/12/2021 65,000.00	64,966.85 0.00 0.00 64,966.85	51.91 0.00 85.76 33.85	0.00 0.00 0.00 33.85	33.85
808513BN4	Charles Schwab Corp Callable Note Cont 2/18/2024 0.75% Due 03/18/2024	Various Various 485,000.00	487,196.50 0.00 0.00 487,196.50	1,646.98 1,818.75 131.35 303.12	0.00 0.00 0.00 303.12	303.12
808513BY0	Charles Schwab Corp Callable Note Cont 2/3/2027 2.45% Due 03/03/2027	03/01/2022 03/03/2022 80,000.00	79,913.60 0.00 0.00 79,913.60	969.11 980.00 152.44 163.33	0.00 0.00 0.00 163.33	163.33
857477BR3	State Street Bank Callable Note Cont 2/6/2025 1.746% Due 02/06/2026	02/02/2022 02/07/2022 125,000.00	125,000.00 0.00 0.00 125,000.00	151.56 0.00 333.44 181.88	0.00 0.00 0.00 181.88	181.88



CUSIP	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
87612EBM7	Target Corp Callable Note Cont 12/15/2026 1.95% Due 01/15/2027	01/19/2022 01/24/2022 215,000.00	214,634.50 0.00 0.00 214,634.50	535.71 0.00 885.08 349.37	0.00 0.00 0.00 349.37	349.37
89114TZG0	Toronto-Dominion Bank Note 1.25% Due 09/10/2026	11/17/2021 11/19/2021 500,000.00	489,720.00 0.00 0.00 489,720.00	2,968.75 3,125.00 364.58 520.83	0.00 0.00 0.00 520.83	520.83
89236TFS9	Toyota Motor Credit Corp Note Due 01/08/2024	05/20/2019 05/22/2019 0.00	411,444.00 0.00 411,444.00 0.00	1,972.78 2,419.44 0.00 446.66	0.00 0.00 0.00 446.66	446.66
89236TLB9	Toyota Motor Credit Corp Note 5.25% Due 09/11/2028	09/12/2023 09/13/2023 450,000.00	0.00 450,900.00 0.00 450,900.00	0.00 (131.25) 1,312.50 1,181.25	0.00 0.00 0.00 1,181.25	1,181.25
89236XAC0	Toyota Auto Receivables 2020-D A3 0.35% Due 01/15/2025	10/06/2020 10/13/2020 8,516.06	12,276.32 0.00 3,761.85 8,514.47	1.91 3.58 1.32 2.99	0.00 0.00 0.00 2.99	2.99
89237VAB5	Toyota Auto Receivables Trust 2020-C A3 0.44% Due 10/15/2024	07/21/2020 07/27/2020 2,653.65	7,836.50 0.00 5,183.05 2,653.45	1.53 2.87 0.52 1.86	0.00 0.00 0.00 1.86	1.86
89240BAC2	Toyota Auto Receivables Owners 2021-A A3 0.26% Due 05/15/2025	02/02/2021 02/08/2021 81,135.05	92,803.80 0.00 11,683.80 81,120.00	10.73 20.11 9.38 18.76	0.00 0.00 0.00 18.76	18.76
91159HHX1	US Bancorp Callable Note Cont 6/28/2024 2.4% Due 07/30/2024	03/25/2021 03/29/2021 450,000.00	475,276.50 0.00 0.00 475,276.50	930.00 0.00 1,830.00 900.00	0.00 0.00 0.00 900.00	900.00
9128282A7	US Treasury Note 1.5% Due 08/15/2026	Various Various 1,000,000.00	1,019,062.50 0.00 0.00 1,019,062.50	692.94 0.00 1,915.76 1,222.82	0.00 0.00 0.00 1,222.82	1,222.82

Income Earned
As of September 30, 2023



CUSIP	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
9128284Z0	US Treasury Note 2.75% Due 08/31/2025	06/17/2021 06/18/2021 675,000.00	732,111.33 0.00 0.00 732,111.33	51.00 0.00 1,580.87 1,529.87	0.00 0.00 0.00 1,529.87	1,529.87
9128286L9	US Treasury Note 2.25% Due 03/31/2026	10/25/2021 10/26/2021 1,000,000.00	1,050,234.38 0.00 0.00 1,050,234.38	9,467.21 11,250.00 61.48 1,844.27	0.00 0.00 0.00 1,844.27	1,844.27
912828P46	US Treasury Note 1.625% Due 02/15/2026	Various Various 1,300,000.00	1,303,801.76 0.00 0.00 1,303,801.76	975.88 0.00 2,698.03 1,722.15	0.00 0.00 0.00 1,722.15	1,722.15
912828R36	US Treasury Note 1.625% Due 05/15/2026	10/25/2021 10/26/2021 1,000,000.00	1,022,500.00 0.00 0.00 1,022,500.00	4,813.18 0.00 6,137.91 1,324.73	0.00 0.00 0.00 1,324.73	1,324.73
912828V98	US Treasury Note 2.25% Due 02/15/2027	03/29/2022 03/30/2022 360,000.00	355,387.50 0.00 0.00 355,387.50	374.18 0.00 1,034.51 660.33	0.00 0.00 0.00 660.33	660.33
912828ZT0	US Treasury Note 0.25% Due 05/31/2025	02/25/2021 02/26/2021 675,000.00	665,112.30 0.00 0.00 665,112.30	428.79 0.00 567.11 138.32	0.00 0.00 0.00 138.32	138.32
91282CAM3	US Treasury Note 0.25% Due 09/30/2025	Various Various 1,000,000.00	970,800.79 0.00 0.00 970,800.79	1,051.92 1,250.00 6.84 204.92	0.00 0.00 0.00 204.92	204.92
91282CAT8	US Treasury Note 0.25% Due 10/31/2025	11/29/2021 11/30/2021 650,000.00	629,535.16 0.00 0.00 629,535.16	547.55 0.00 680.03 132.48	0.00 0.00 0.00 132.48	132.48
91282CAZ4	US Treasury Note 0.375% Due 11/30/2025	Various Various 800,000.00	780,535.15 0.00 0.00 780,535.15	762.29 0.00 1,008.19 245.90	0.00 0.00 0.00 245.90	245.90

Income Earned
As of September 30, 2023



CUSIP	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
91282CCT6	US Treasury Note Due 08/15/2024	12/15/2021 12/16/2021 0.00	789,000.00 0.00 789,000.00 0.00	138.59 236.41 0.00 97.82	0.00 0.00 0.00 97.82	97.82
91282CDG3	US Treasury Note 1.125% Due 10/31/2026	11/18/2021 11/19/2021 1,000,000.00	995,507.81 0.00 0.00 995,507.81	3,790.76 0.00 4,707.88 917.12	0.00 0.00 0.00 917.12	917.12
91282CDH1	US Treasury Note 0.75% Due 11/15/2024	11/29/2021 11/30/2021 650,000.00	648,324.22 0.00 0.00 648,324.22	1,443.95 0.00 1,841.37 397.42	0.00 0.00 0.00 397.42	397.42
91282CDK4	US Treasury Note 1.25% Due 11/30/2026	12/22/2021 12/23/2021 1,000,000.00	1,001,601.56 0.00 0.00 1,001,601.56	3,176.23 0.00 4,200.82 1,024.59	0.00 0.00 0.00 1,024.59	1,024.59
91282CEF4	US Treasury Note 2.5% Due 03/31/2027	05/25/2022 05/26/2022 690,000.00	682,722.66 0.00 0.00 682,722.66	7,258.20 8,625.00 47.13 1,413.93	0.00 0.00 0.00 1,413.93	1,413.93
91282CET4	US Treasury Note 2.625% Due 05/31/2027	06/21/2022 06/22/2022 850,000.00	820,847.66 0.00 0.00 820,847.66	5,669.57 0.00 7,498.46 1,828.89	0.00 0.00 0.00 1,828.89	1,828.89
91282CFB2	US Treasury Note 2.75% Due 07/31/2027	08/30/2022 08/31/2022 325,000.00	317,001.95 0.00 0.00 317,001.95	777.17 0.00 1,505.77 728.60	0.00 0.00 0.00 728.60	728.60
91282CFH9	US Treasury Note 3.125% Due 08/31/2027	10/05/2022 10/06/2022 125,000.00	120,214.84 0.00 0.00 120,214.84	10.73 0.00 332.68 321.95	0.00 0.00 0.00 321.95	321.95
91282CFM8	US Treasury Note 4.125% Due 09/30/2027	Various Various 1,025,000.00	1,035,717.78 0.00 0.00 1,035,717.78	17,790.47 21,140.63 115.52 3,465.68	0.00 0.00 0.00 3,465.68	3,465.68



CUSIP	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
91282CFZ9	US Treasury Note 3.875% Due 11/30/2027	12/28/2022 12/29/2022 760,000.00	756,971.88 0.00 0.00 756,971.88	7,483.20 0.00 9,897.13 2,413.93	0.00 0.00 0.00 2,413.93	2,413.93
91282CGC9	US Treasury Note 3.875% Due 12/31/2027	01/24/2023 01/25/2023 1,000,000.00	1,012,890.63 0.00 0.00 1,012,890.63	6,633.83 0.00 9,792.80 3,158.97	0.00 0.00 0.00 3,158.97	3,158.97
91282CGT2	US Treasury Note 3.625% Due 03/31/2028	05/25/2023 05/26/2023 425,000.00	420,185.55 0.00 0.00 420,185.55	6,482.41 7,703.13 42.09 1,262.81	0.00 0.00 0.00 1,262.81	1,262.81
91282CHA2	US Treasury Note 3.5% Due 04/30/2028	Various Various 800,000.00	441,105.47 335,972.66 0.00 777,078.13	5,307.07 (4,527.17) 11,717.39 1,883.15	0.00 0.00 0.00 1,883.15	1,883.15
91324PEC2	United Health Group Inc Callable Note Cont 4/15/2026 1.15% Due 05/15/2026	11/24/2021 11/29/2021 500,000.00	490,095.00 0.00 0.00 490,095.00	1,693.06 0.00 2,172.22 479.16	0.00 0.00 0.00 479.16	479.16
931142ER0	Wal-Mart Stores Callable Note Cont 08/17/2026 1.05% Due 09/17/2026	09/08/2021 09/17/2021 80,000.00	79,848.80 0.00 0.00 79,848.80	382.67 420.00 32.67 70.00	0.00 0.00 0.00 70.00	70.00
931142EW9	Wal-Mart Stores Note 3.9% Due 09/09/2025	09/06/2022 09/09/2022 95,000.00	94,933.50 0.00 0.00 94,933.50	1,770.17 1,852.50 226.42 308.75	0.00 0.00 0.00 308.75	308.75
931142EX7	Wal-Mart Stores Callable Note Cont 09/09/2027 3.95% Due 09/09/2027	10/05/2022 10/07/2022 350,000.00	341,393.50 0.00 0.00 341,393.50	6,605.28 6,912.50 844.86 1,152.08	0.00 0.00 0.00 1,152.08	1,152.08
			37,619,816.23	189,661.26	0.00	
			1,927,963.67	110,895.90	0.00	
			1,867,659.05	149,312.31	0.00	
Total Fixed Income		37,632,670.89	37,680,120.85	70,546.95	70,546.95	70,546.95

Income Earned
As of September 30, 2023



CUSIP	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
CASH & EQUIVALENT						
60934N807	Federated Investors Govt Oblig Fund Inst.	Various Various 188,697.51	182,415.27 756,128.57 749,846.33 188,697.51	0.00 852.17 0.00 852.17	0.00 0.00 0.00 852.17	852.17
			182,415.27	0.00	0.00	
			756,128.57	852.17	0.00	
			749,846.33	0.00	0.00	
Total Cash & Equivalent		188,697.51	188,697.51	852.17	852.17	852.17
			37,802,231.50	189,661.26	0.00	
			2,684,092.24	111,748.07	0.00	
			2,617,505.38	149,312.31	0.00	
TOTAL PORTFOLIO		37,821,368.40	37,868,818.36	71,399.12		71,399.12



COUNTY OF SAN DIEGO INVESTMENT POOL TREASURY INVESTMENT RESULTS

Sep
2023

PARTICIPANT CASH BALANCES

County of San Diego Pooled Money Fund

As of September 30, 2023

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PARTICIPANT	FMV 07/31/23	FMV 08/31/23	FMV 09/30/23	% of Total	PARTICIPANT	FMV 07/31/23	FMV 08/31/23	FMV 09/30/23	% of Total
COUNTY	1,782,128	1,677,968	1,688,489	12.91%	Lakeside FPD	5,063	4,767	3,753	0.03%
COUNTY - SPECIAL TRUST FUNDS	2,329,907	2,193,730	2,089,965	15.98%	Leucadia Wastewater District	11	10	10	0.00%
NON-COUNTY INVESTMENT FUNDS	128,080	120,594	117,329	0.90%	Lower Sweetwater FPD	612	577	442	0.00%
SCHOOLS - (K THRU 12)	7,413,911	6,980,589	6,842,696	52.31%	Metropolitan Transit System	185,226	174,400	186,648	1.43%
					Mission Resource Conservation District	109	103	32	0.00%
COMMUNITY COLLEGES					North County Transit District	42,605	40,114	40,258	0.31%
San Diego	211,895	199,510	204,507	1.56%	North County Cemetery District	10,815	10,183	10,171	0.08%
Grossmont-Cuyamaca	318,033	299,444	277,739	2.12%	North County Dispatch	5,680	5,348	5,024	0.04%
MiraCosta	296,522	279,191	269,802	2.06%	North County FPD	5,356	5,043	4,991	0.04%
Palomar	293,094	275,963	274,514	2.11%	Otay Water District	15,909	14,979	15,040	0.11%
Southwestern	341,627	321,660	318,295	2.43%	Palomar Health	0	0	1	0.00%
Total Community Colleges	1,461,170	1,375,769	1,344,857	10.28%	Pomerado Cemetery District	2,108	1,984	1,869	0.01%
FIRST 5 COMMISSION	35,261	33,200	31,975	0.24%	Public Agencies Self-Insurance System	3,725	3,507	3,522	0.03%
SDCERA	1,237	1,165	8,026	0.06%	Ramona Cemetery District	1,141	1,074	1,509	0.01%
CITIES					Rancho Santa Fe FPD	11,335	10,673	9,535	0.07%
Chula Vista	30,601	28,812	28,843	0.22%	Resource Conservation District of Greater SD*	0	0	0	0.00%
Coronado	101,723	95,778	96,168	0.74%	Rincon del Diablo Municipal Water District	4,136	3,894	3,910	0.03%
Del Mar	2,950	2,778	2,789	0.02%	SANDAG	14,261	13,428	17,724	0.14%
Encinitas	1,297	1,222	1,227	0.01%	SD County Regional Airport Authority	299,159	281,674	284,642	2.18%
National City	38,704	36,442	36,590	0.28%	San Diego Housing Commission	13,255	12,481	12,580	0.10%
Oceanside*	0	0	0	0.00%	San Diego Geographic Information Source	742	699	661	0.01%
Solana Beach*	0	0	0	0.00%	San Diego Law Library	7,342	6,913	7,154	0.05%
Vista	89	84	84	0.00%	San Diego Local Agency Formation Comm	2,988	2,813	2,770	0.02%
INDEPENDENT AGENCIES					San Diego Regional Training Center	1,432	1,348	1,275	0.01%
Air Pollution Control District	96,159	90,539	88,591	0.68%	San Dieguito River Park	1,896	1,785	1,650	0.01%
Alpine FPD	2,185	2,057	1,735	0.01%	San Marcos FPD	1	1	1	0.00%
Bonita-Sunnyside FPD	3,570	3,361	2,928	0.02%	San Miguel Consolidated FPD	24,836	23,385	22,656	0.17%
Borrego Springs FPD	1,065	1,003	1,017	0.01%	Santa Fe Irrigation District	4,800	4,519	4,538	0.03%
Canebrake County Water District	58	55	55	0.00%	Upper San Luis Rey Resource Conserv Dist	16	15	15	0.00%
Deer Springs FPD	22,282	20,980	21,047	0.16%	Vallecitos Water District	5,896	5,551	5,574	0.04%
Grossmont Healthcare District	2	2	2	0.00%	Valley Center FPD	1,613	1,519	1,494	0.01%
Julian-Cuyamaca FPD	0	0	0	0.00%	Valley Center Cemetery District	549	517	520	0.00%
Lake Cuyamaca Rec & Park District	300	283	248	0.00%	Valley Center Water District	23,533	22,157	21,435	0.16%
					Vista FPD	6,224	5,860	5,792	0.04%
					Whispering Palms Community Services District*	0	0	0	0.00%
					Total Voluntary Participants	1,039,856	979,079	998,521	7.63%
					Pooled Money Fund Total	\$ 14,155,051	\$ 13,327,729	\$ 13,081,857	100.00%

* Footnote: The Oracle ending balances for these pool participants are under \$500. Due to rounding, the FMV will show as zero even though there is an Oracle balance.

Below is the market price for Sep 2023.

National City		Pool YTM: 3.51			
Conversion of Oracle Cash Balance to COSD Pool Market Price					
Month Ended Sep 30, 2023					
		Current Month	Prior Month	Prior Quarter	Prior Year
		9/30/2023	8/31/2023	6/30/2023	9/30/2022
COSD Pool Market Price		97.091%	97.182%	99.531%	95.251%
COSD Pool Market Value		13,081,857,353	13,327,728,503	15,570,724,983	10,974,939,342
National City percentage of MV share in COSD Pool		0.2797%	0.2734%	0.2390%	0.3188%
Fund Description	Oracle Cash Balance	Market Value	Market Value	Market Value	Market Value
44077 NATIONAL CITY INVESTMENT FUND	37,686,677	36,590,392	36,441,788	37,209,041	34,989,149
Total for National City	37,686,677	36,590,392	36,441,788	37,209,041	34,989,149

National City		Pool YTM: 3.47			
Conversion of Oracle Cash Balance to COSD Pool Market Price					
Month Ended Aug 31, 2023					
		Current Month	Prior Month	Prior Quarter	Prior Year
		8/31/2023	7/31/2023	5/31/2023	8/31/2022
COSD Pool Market Price		97.182%	100.409%	98.116%	96.272%
COSD Pool Market Value		13,327,728,503	14,155,051,153	15,912,924,549	11,169,625,705
National City percentage of MV share in COSD Pool		0.2734%	0.2660%	0.2290%	0.3166%
Fund Description	Oracle Cash Balance	Market Value	Market Value	Market Value	Market Value
44077 NATIONAL CITY INVESTMENT FUND	37,498,385	36,441,788	37,651,930	36,440,597	35,364,054
Total for National City	37,498,385	36,441,788	37,651,930	36,440,597	35,364,054

Below is the market price for July 2023.

National City		Pool YTM: 3.35			
Conversion of Oracle Cash Balance to COSD Pool Market Price					
Month Ended July 31, 2023					
		Current Month	Prior Month	Prior Quarter	Prior Year
		7/31/2023	6/30/2023	4/30/2023	7/31/2022
COSD Pool Market Price		100.409%	97.278%	97.755%	97.239%
COSD Pool Market Value		14,155,051,153	15,218,221,236	16,519,538,605	12,187,895,579
National City percentage of MV share in COSD Pool		0.2660%	0.2390%	0.2197%	0.2928%
Fund Description	Oracle Cash Balance	Market Value	Market Value	Market Value	Market Value
44077 NATIONAL CITY INVESTMENT FUND	37,498,385	37,651,930	36,366,670	36,300,630	35,682,076
Total for National City	37,498,385	37,651,930	36,366,670	36,300,630	35,682,076

Thank you,

California State Treasurer
Fiona Ma, CPA



Local Agency Investment Fund
P.O. Box 942809
Sacramento, CA 94209-0001
(916) 653-3001

October 03, 2023

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[PMIA Average Monthly Yields](#)

CITY OF NATIONAL CITY

FINANCE DIRECTOR
1243 NATIONAL CITY BLVD
NATIONAL CITY, CA 91950-4397

[Tran Type Definitions](#)

//

Account Number:

September 2023 Statement

Account Summary

Total Deposit:	0.00	Beginning Balance:	47,580,155.24
Total Withdrawal:	0.00	Ending Balance:	47,580,155.24



MALIA M. COHEN

California State Controller

LOCAL AGENCY INVESTMENT FUND
REMITTANCE ADVICE

Agency Name NATIONAL CITY

Account Number

As of 10/13/2023, your Local Agency Investment Fund account has been directly credited with the interest earned on your deposits for the quarter ending 09/30/2023.

Earnings Ratio		.00009812538629360
Interest Rate		3.59%
Dollar Day Total	\$	4,372,555,245.26
Quarter End Principal Balance	\$	47,580,155.24
Quarterly Interest Earned	\$	429,058.67

California State Treasurer
Fiona Ma, CPA



Local Agency Investment Fund
P.O. Box 942809
Sacramento, CA 94209-0001
(916) 653-3001

October 26, 2023

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CITY OF NATIONAL CITY

FINANCE DIRECTOR
1243 NATIONAL CITY BLVD
NATIONAL CITY, CA 91950-4397

[Tran Type Definitions](#)

Account Number:

August 2023 Statement

Account Summary

Total Deposit:	0.00	Beginning Balance:	47,580,155.24
Total Withdrawal:	0.00	Ending Balance:	47,580,155.24

California State Treasurer
Fiona Ma, CPA



Local Agency Investment Fund
P.O. Box 942809
Sacramento, CA 94209-0001
(916) 653-3001

October 26, 2023

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CITY OF NATIONAL CITY

FINANCE DIRECTOR
1243 NATIONAL CITY BLVD
NATIONAL CITY, CA 91950-4397

[Tran Type Definitions](#)

Account Number:

July 2023 Statement

Effective Date	Transaction Date	Tran Type	Confirm Number	Web Confirm Number	Authorized Caller	Amount
7/14/2023	7/19/2023	QRD	1736202	N/A	SYSTEM	370,695.14

Account Summary

Total Deposit:	370,695.14	Beginning Balance:	47,209,460.10
Total Withdrawal:	0.00	Ending Balance:	47,580,155.24



State of California Pooled Money Investment Account Market Valuation 9/30/2023

Description	Carrying Cost Plus Accrued Interest Purch.	Amortized Cost	Fair Value	Accrued Interest
United States Treasury:				
Bills	\$ 22,254,070,554.26	\$ 22,573,811,770.05	\$ 22,564,630,000.00	NA
Notes	\$ 75,736,882,320.52	\$ 75,726,070,719.47	\$ 73,914,693,500.00	\$ 356,275,509.00
Federal Agency:				
SBA	\$ 289,931,607.50	\$ 289,931,607.50	\$ 289,283,255.27	\$ 1,343,664.44
MBS-REMICs	\$ 2,444,395.28	\$ 2,444,395.28	\$ 2,377,611.11	\$ 10,790.37
Debentures	\$ 8,932,358,628.46	\$ 8,931,933,628.45	\$ 8,757,401,100.00	\$ 56,448,847.70
Debentures FR	\$ -	\$ -	\$ -	\$ -
Debentures CL	\$ 800,000,000.00	\$ 800,000,000.00	\$ 778,527,500.00	\$ 6,377,986.50
Discount Notes	\$ 19,299,127,548.54	\$ 19,592,303,562.55	\$ 19,597,035,000.00	NA
Supranational Debentures				
Supranational Debentures FR	\$ -	\$ -	\$ -	\$ -
CDs and YCDs FR				
Bank Notes	\$ -	\$ -	\$ -	\$ -
Bank Notes	\$ 100,000,000.00	\$ 100,000,000.00	\$ 99,998,636.29	\$ 3,441,666.67
CDs and YCDs	\$ 10,900,000,000.00	\$ 10,900,000,000.00	\$ 10,895,339,264.35	\$ 125,772,666.67
Commercial Paper	\$ 6,278,680,305.56	\$ 6,336,423,069.39	\$ 6,333,243,472.32	NA
Corporate:				
Bonds FR	\$ -	\$ -	\$ -	\$ -
Bonds	\$ 438,461,769.11	\$ 438,392,491.33	\$ 413,769,970.00	\$ 2,753,541.98
Repurchase Agreements				
Reverse Repurchase	\$ -	\$ -	\$ -	\$ -
Reverse Repurchase	\$ -	\$ -	\$ -	\$ -
Time Deposits				
PMIA & GF Loans	\$ 5,243,000,000.00	\$ 5,243,000,000.00	\$ 5,243,000,000.00	NA
PMIA & GF Loans	\$ 380,513,000.00	\$ 380,513,000.00	\$ 380,513,000.00	NA
TOTAL	\$ 153,724,911,015.80	\$ 154,384,021,380.59	\$ 152,270,155,109.34	\$ 574,178,404.43

Fair Value Including Accrued Interest

\$ 152,844,333,513.77

Repurchase Agreements, Time Deposits, PMIA & General Fund loans, and Reverse Repurchase agreements are carried at portfolio book value (carrying cost).

The value of each participating dollar equals the fair value divided by the amortized cost (0.986307739). As an example: if an agency has an account balance of \$20,000,000.00, then the agency would report its participation in the LAIF valued at \$19,726,154.79 or \$20,000,000.00 x 0.986307739.



[Home](#) ->> [PMIA](#) ->> PMIA Average Monthly Effective Yields



POOLED MONEY INVESTMENT ACCOUNT

PMIA Average Monthly Effective Yields

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1977	5.770	5.660	5.660	5.650	5.760	5.850	5.930	6.050	6.090	6.090	6.610	6.730
1978	6.920	7.050	7.140	7.270	7.386	7.569	7.652	7.821	7.871	8.110	8.286	8.769
1979	8.777	8.904	8.820	9.082	9.046	9.224	9.202	9.528	9.259	9.814	10.223	10.218
1980	10.980	11.251	11.490	11.480	12.017	11.798	10.206	9.870	9.945	10.056	10.426	10.961
1981	10.987	11.686	11.130	11.475	12.179	11.442	12.346	12.844	12.059	12.397	11.887	11.484
1982	11.683	12.044	11.835	11.773	12.270	11.994	12.235	11.909	11.151	11.111	10.704	10.401
1983	10.251	9.887	9.688	9.868	9.527	9.600	9.879	10.076	10.202	10.182	10.164	10.227
1984	10.312	10.280	10.382	10.594	10.843	11.119	11.355	11.557	11.597	11.681	11.474	11.024
1985	10.579	10.289	10.118	10.025	10.180	9.743	9.656	9.417	9.572	9.482	9.488	9.371
1986	9.252	9.090	8.958	8.621	8.369	8.225	8.141	7.844	7.512	7.586	7.432	7.439
1987	7.365	7.157	7.205	7.044	7.294	7.289	7.464	7.562	7.712	7.825	8.121	8.071
1988	8.078	8.050	7.945	7.940	7.815	7.929	8.089	8.245	8.341	8.397	8.467	8.563
1989	8.698	8.770	8.870	8.992	9.227	9.204	9.056	8.833	8.801	8.771	8.685	8.645
1990	8.571	8.538	8.506	8.497	8.531	8.538	8.517	8.382	8.333	8.321	8.269	8.279
1991	8.164	8.002	7.775	7.666	7.374	7.169	7.098	7.072	6.859	6.719	6.591	6.318
1992	6.122	5.863	5.680	5.692	5.379	5.323	5.235	4.958	4.760	4.730	4.659	4.647
1993	4.678	4.649	4.624	4.605	4.427	4.554	4.438	4.472	4.430	4.380	4.365	4.384
1994	4.359	4.176	4.248	4.333	4.434	4.623	4.823	4.989	5.106	5.243	5.380	5.528
1995	5.612	5.779	5.934	5.960	6.008	5.997	5.972	5.910	5.832	5.784	5.805	5.748
1996	5.698	5.643	5.557	5.538	5.502	5.548	5.587	5.566	5.601	5.601	5.599	5.574
1997	5.583	5.575	5.580	5.612	5.634	5.667	5.679	5.690	5.707	5.705	5.715	5.744
1998	5.742	5.720	5.680	5.672	5.673	5.671	5.652	5.652	5.639	5.557	5.492	5.374
1999	5.265	5.210	5.136	5.119	5.086	5.095	5.178	5.225	5.274	5.391	5.484	5.639
2000	5.760	5.824	5.851	6.014	6.190	6.349	6.443	6.505	6.502	6.517	6.538	6.535
2001	6.372	6.169	5.976	5.760	5.328	4.958	4.635	4.502	4.288	3.785	3.526	3.261
2002	3.068	2.967	2.861	2.845	2.740	2.687	2.714	2.594	2.604	2.487	2.301	2.201
2003	2.103	1.945	1.904	1.858	1.769	1.697	1.653	1.632	1.635	1.596	1.572	1.545
2004	1.528	1.440	1.474	1.445	1.426	1.469	1.604	1.672	1.771	1.890	2.003	2.134
2005	2.264	2.368	2.542	2.724	2.856	2.967	3.083	3.179	3.324	3.458	3.636	3.808
2006	3.955	4.043	4.142	4.305	4.563	4.700	4.849	4.946	5.023	5.098	5.125	5.129
2007	5.156	5.181	5.214	5.222	5.248	5.250	5.255	5.253	5.231	5.137	4.962	4.801
2008	4.620	4.161	3.777	3.400	3.072	2.894	2.787	2.779	2.774	2.709	2.568	2.353
2009	2.046	1.869	1.822	1.607	1.530	1.377	1.035	0.925	0.750	0.646	0.611	0.569
2010	0.558	0.577	0.547	0.588	0.560	0.528	0.531	0.513	0.500	0.480	0.454	0.462
2011	0.538	0.512	0.500	0.588	0.413	0.448	0.381	0.408	0.378	0.385	0.401	0.382
2012	0.385	0.389	0.383	0.367	0.363	0.358	0.363	0.377	0.348	0.340	0.324	0.326
2013	0.300	0.286	0.285	0.264	0.245	0.244	0.267	0.271	0.257	0.266	0.263	0.264
2014	0.244	0.236	0.236	0.233	0.228	0.228	0.244	0.260	0.246	0.261	0.261	0.267
2015	0.262	0.266	0.278	0.283	0.290	0.299	0.320	0.330	0.337	0.357	0.374	0.400
2016	0.446	0.467	0.506	0.525	0.552	0.576	0.588	0.614	0.634	0.654	0.678	0.719
2017	0.751	0.777	0.821	0.884	0.925	0.978	1.051	1.084	1.111	1.143	1.172	1.239
2018	1.350	1.412	1.524	1.661	1.755	1.854	1.944	1.998	2.063	2.144	2.208	2.291
2019	2.355	2.392	2.436	2.445	2.449	2.428	2.379	2.341	2.280	2.190	2.103	2.043
2020	1.967	1.912	1.787	1.648	1.363	1.217	0.920	0.784	0.685	0.620	0.576	0.540
2021	0.458	0.407	0.357	0.339	0.315	0.262	0.221	0.221	0.206	0.203	0.203	0.212
2022	0.234	0.278	0.365	0.523	0.684	0.861	1.090	1.276	1.513	1.772	2.007	2.173
2023	2.425	2.624	2.831	2.870	2.993	3.167	3.305*	3.434	3.534			

* Revised



AGENDA REPORT

Department: Police Department
Prepared by: Ronald Gutlay, Management Analyst II
Meeting Date: Tuesday, November 21, 2023
Approved by: Ben Martinez, Interim City Manager

SUBJECT:

Organized Retail Theft Prevention Grant Program Award of \$935,100 to the City of National City for the Period of October 1, 2023 to June 1, 2027.

RECOMMENDATION:

Adopt a Resolution entitled, "Resolution of the City Council of the City of National City, California, 1) Authorizing the Acceptance of Organized Retail Theft Prevention Grant Program Funds in the Amount of \$935,100 from the Board of State and Community Corrections, 2) Authorizing the Establishment of an Appropriation and Corresponding Revenue Budget in the Amount of \$935,100, 3) Waiving the Formal Bid Process Pursuant to National City Municipal Code Section 2.60.220, and 4) Authorizing the City Manager to Enter into an Agreement with Flock Safety to Implement an Automated License Plate Reader Program."

BOARD/COMMISSION/COMMITTEE PRIOR ACTION:

Not Applicable.

EXPLANATION:

The Organized Retail Theft Prevention Grant Program is funded through the State Budget Act of 2022, Senate Bill 154 (SB154) and is administered by the Board of State and Community Corrections (BSCC). The BSCC announced that the City of National City's grant proposal was awarded \$935,100 for the period of October 1, 2023 through June 1, 2027. Permissible uses of this grant include, but are not limited to, the purchase or lease of technology or other equipment to help deter Organized Retail Theft of the following Program Purpose Areas (PPAs):

- PPA 1: Organized Retail Theft
- PPA 2: Motor Vehicle or Motor Vehicle Accessory Theft
- PPA3: Cargo Theft

There are two funding categories, Medium Scope and Large Scope. The maximum grant award per category is \$6,125,000 and \$15,650,000, respectively. The total available funding for the Medium Scope is \$85,750,000 and \$156,500,000 for Large Scope.

SB154 requires the BSCC to give preference to applicants whose grant proposals demonstrate the greatest need for additional resources and likelihood of success in reducing organized retail theft, motor vehicle or motor vehicle accessory theft, and cargo theft.

The Police Department intends to allocate \$865,100 for the purpose of entering into a three-year service agreement with Flock Safety, a sole source provider, and \$70,000 for certain other related professional services. This agreement will facilitate the installation of 94 License Plate Readers on existing infrastructure within the City of National City and for monitoring and reporting services.

The installation process will include site and safety assessments, camera setup and testing, as well as the shipping and handling of the equipment.

The total of \$935,100 covers the initial year's fees for the Automated License Plate Reader (ALPR) system comprising \$282,000 for the first year and one-time professional services fees of \$19,100. For the subsequent years, the fees will remain at \$282,000 for each year. Additionally, \$70,000 is allocated to cover expenses for an Evaluation Report and Independent Audit Report at the conclusion of the grant, as stipulated by the grant agreement.

The Flock Safety system is used by more than 200 agencies across California, including several in San Diego County to which potential access may be available. It is the only system that meets the City's needs for a stationary mounted system. Flock Safety is the sole manufacturer and developer of the Flock Safety ALPR Camera. Flock Safety is also the sole provider of the comprehensive monitoring, processing, and machine vision services which integrate with the Flock Safety ALPR Camera. Additionally, Flock Safety will integrate with existing Police Department software and systems through Axon. Staff requests that the formal bid process be waived pursuant to National City Municipal Code (NCMC) sections 2.60.220(B) and (C) to enter into an agreement with Flock Safety to provide the ALPR system.

The Flock Safety ALPR camera and devices are the only Law Enforcement Grade ALPR System to offer the following combination of features:

1. Patented proprietary machine vision to analyze vehicle license plate, state recognition, and vehicle attributes such as color, type, make and objects (roof rack, bumper stickers, etc.) based on image analytics (not car registration data).
2. Machine vision to capture and identify characteristics of vehicles with a paper license plate and vehicles with the absence of a license plate.
3. Only LPR provider with "Visual Search" which can transform digital images from any source into an investigative lead by finding matching vehicles based on the vehicle attributes in the uploaded photo.
4. Falcon Flex™: an infrastructure-free, location-flexible license plate reader camera that is easy to self-install.
5. Falcon Flex ties seamlessly into the Flock ecosystem with a small and lightweight camera with the ability to read up to 30,000 license plates and vehicle attributes on a single battery charge powered exclusively by solar power.

FINANCIAL STATEMENT:

Revenue:

290-11685-3463	Other State Grants	\$935,100
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Expenditures:

290-411-685-201-0000	Accounting and Audit Services	70,000
290-411-685-213-0000	Professional Services	19,100
290-411-685-299-0000	Contract Services	846,000

RELATED CITY COUNCIL 2020-2025 STRATEGIC PLAN GOAL:

Not Applicable

ENVIRONMENTAL REVIEW:

This is not a project under CEQA and is therefore not subject to environmental review.CCR15378; PRC 21065.

PUBLIC NOTIFICATION:

Agenda Report posted within 72 hours of meeting date and time in accordance with Brown Act.

ORDINANCE:

Not Applicable

EXHIBITS:

Exhibit A - 23-27 ORTP Grant Agreement

Exhibit B - Flock Safety-Exhibit A (Order Form)-Master Service Agreement

Exhibit C - Sole Source Letter-Flock Safety

Exhibit D - Resolution

STANDARD AGREEMENT

STD 213 (Rev 03/2019)

AGREEMENT NUMBER

BSCC 1160- 23

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

BOARD OF STATE AND COMMUNITY CORRECTIONS

CONTRACTOR NAME

National City Police Department

2. The term of this Agreement is:

START DATE

OCTOBER 1, 2023

THROUGH END DATE

JUNE 1, 2027

3. The maximum amount of this Agreement is:

\$935,100.00

4. The parties agree to comply with the terms and conditions of the following exhibits, attachments, and appendices which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Scope of Work	3
Exhibit B	Budget Detail and Payment Provisions	4
Exhibit C	General Terms and Conditions (04/2017)	4
Exhibit D	Special Terms and Conditions	5
Attachment 1*	Organized Retail Theft Prevention Grant Program Request for Proposals	*
Attachment 2	Organized Retail Theft Prevention Grant Program Grant Proposal	49
Appendix A	Organized Retail Theft Grant Program Scoring Panel Roster	1
Appendix B	Grantee Assurance for Non-Governmental Organizations	2

* This item is hereby incorporated by reference and can be viewed at: <https://www.bscc.ca.gov/organized-retail-theft-grant-program/>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

National City Police Department

CONTRACTOR BUSINESS ADDRESS

1200 National City Boulevard

CITY

National City

STATE

CA

ZIP

91950

PRINTED NAME OF PERSON SIGNING

Jose Tellez

TITLE

Chief of Police

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

09/21/2023

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

BOARD OF STATE AND COMMUNITY CORRECTIONS

CONTRACTING AGENCY ADDRESS

2590 Venture Oaks Way, Suite 200

CITY

Sacramento

STATE

CA

ZIP

95833

PRINTED NAME OF PERSON SIGNING

COLLEEN CURTIN

TITLE

Deputy Director

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL: EXEMPT PER SCM, VOLUME 1, CH. 4.06

EXHIBIT A: SCOPE OF WORK

1. GRANT AGREEMENT – Organized Retail Theft Grant Program

This Grant Agreement is between the State of California, Board of State and Community Corrections (hereafter referred to as BSCC) and National City Police Department (hereafter referred to as the Grantee).

2. PROJECT SUMMARY AND ADMINISTRATION

- A. The Organized Retail Theft Grant Program was established in Senate Bill 154 (SB 154) (Chapter 43, Statutes of 2022). Organized Retail Theft Grant Program funds shall be used to support local law enforcement agencies in preventing and responding to organized retail theft, motor vehicle or motor vehicle accessory theft, or cargo theft.
- B. Grantee agrees to administer the project in accordance with Attachment 1: Organized Retail Theft Grant Program Request for Proposals (incorporated by reference) and Attachment 2: Organized Retail Theft Grant Program Grant Proposal, which is attached and hereto and made part of this agreement.

3. PROJECT OFFICIALS

- A. The BSCC's Executive Director or designee shall be the BSCC's representative for administration of the Grant Agreement and shall have authority to make determinations relating to any controversies that may arise under or regarding the interpretation, performance, or payment for work performed under this Grant Agreement.
- B. The Grantee's project officials shall be those identified as follows:

Authorized Officer with legal authority to sign:

Name: Jose Tellez

Title: Chief of Police

Address: 1200 National City Boulevard, National City CA 91950

Phone: 619-336-4510

Email: jtellez@nationalcityca.gov

Designated Financial Officer authorized to receive warrants:

Name: Ronald Gutlay

Title: Management Analyst II

Address: 1200 National City Boulevard, National City CA 91950

Phone: 619-336-4517

Email: rgutlay@nationalcityca.gov

Project Director authorized to administer the project:

Name: Derek Aydelotte

Title: Administrative Captain

Address: 1200 National City Boulevard, National City CA 91950

Phone: 619-336-4477

Email: daydelotte@nationalcityca.gov

- C. Either party may change its project representatives upon written notice to the other party.

EXHIBIT A: SCOPE OF WORK

D. By signing this Grant Agreement, the Authorized Officer listed above warrants that he or she has full legal authority to bind the entity for which he or she signs.

4. DATA COLLECTION

Grantees will be required to comply with all data collection and reporting requirements as described in Attachment 1: Organized Retail Theft Grant Program Request for Proposals (incorporated by reference) and Attachment 2: Organized Retail Theft Grant Program Grant Proposal.

5. REPORTING REQUIREMENTS

A. Grantee will submit quarterly progress reports in a format prescribed by the BSCC. These reports, which will describe progress made on program objectives and include required data, shall be submitted according to the following schedule:

Quarterly Progress Report Periods	Due no later than:
1. October 1, 2023 to December 31, 2023	February 15, 2024
2. January 1, 2024 to March 31, 2024	May 15, 2024
3. April 1, 2024 to June 30, 2024	August 15, 2024
4. July 1, 2024 to September 30, 2024	November 15, 2024
5. October 1, 2024 to December 31, 2024	February 15, 2025
6. January 1, 2025 to March 31, 2025	May 15, 2025
7. April 1, 2025 to June 30, 2025	August 15, 2025
8. July 1, 2025 to September 30, 2025	November 15, 2025
9. October 1, 2025 to December 31, 2025	February 15, 2026
10. January 1, 2026 to March 31, 2026	May 15, 2026
11. April 1, 2026 to June 30, 2026	August 15, 2026
12. July 1, 2026 to September 30, 2026	November 15, 2026
13. October 1, 2026 to December 31, 2026	February 15, 2027

B. Evaluation Documents	Due no later than:
1. Local Evaluation Plan	April 1, 2024
2. Final Local Evaluation Report	June 1, 2027

C. Other	Due no later than:
Financial Audit Report	June 1, 2027

Grantees that are unable to demonstrate that they are making sufficient progress toward project goals and objectives and show that funds are being spent in accordance with the Grant Agreement could be subject to a withholding of funds.

6. PROJECT RECORDS

A. The Grantee shall establish an official file for the project. The file shall contain adequate documentation of all actions taken with respect to the project, including copies of this Grant Agreement, approved program/budget modifications, financial records and required reports.

EXHIBIT A: SCOPE OF WORK

- B. The Grantee shall establish separate accounting records and maintain documents and other evidence sufficient to properly reflect the amount, receipt, and disposition of all project funds, including grant funds and any matching funds by the Grantee and the total cost of the project. Source documentation includes copies of all awards, applications, approved modifications, financial records, and narrative reports.
- C. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under the grant, whether they are employed full-time or part-time. Time and effort reports are also required for all subcontractors and consultants.
- D. The grantee shall maintain documentation of donated goods and/or services, including the basis for valuation.
- E. Grantee agrees to protect records adequately from fire or other damage. When records are stored away from the Grantee's principal office, a written index of the location of records stored must be on hand and ready access must be assured.
- F. All Grantee records relevant to the project must be preserved a minimum of three (3) years after closeout of the grant project and shall be subject at all reasonable times to inspection, examination, monitoring, copying, excerpting, transcribing, and auditing by the BSCC or designees. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records must be retained until the completion of the action and resolution of all issues which arise from it or until the end of the regular three-year period, whichever is later.

7. CONFLICT OF INTEREST

- A. Existing law prohibits any grantee, subgrantee, partner or like party who participated on the Organized Retail Theft Grant Program Scoring Panel from receiving funds awarded under the Organized Retail Theft Grant Program RFP. Applicants who are awarded grants under this RFP are responsible for reviewing the Organized Retail Theft Grant Program Scoring Panel roster (*Appendix A*) and ensuring that no grant dollars are passed through to any entity represented by the members of the Organized Retail Theft Grant Program Scoring Panel.
- B. In cases of an actual conflict of interest with a Scoring Panel member, the Board may revoke the grant award and legal consequences could exist for the parties involved, including, but not limited to, repayment of the grant award.

EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS

1. INVOICING AND PAYMENT

- A. The Grantee shall be paid quarterly in arrears by submitting an invoice (Form 201) to the BSCC that outlines actual expenditures claimed for the invoicing period.

Quarterly Invoicing Periods:

	Due no later than:
1. October 1, 2023 to December 31, 2023	February 15, 2024
2. January 1, 2024 to March 31, 2024	May 15, 2024
3. April 1, 2024 to June 30, 2024	August 15, 2024
4. July 1, 2024 to September 30, 2024	November 15, 2024
5. October 1, 2024 to December 31, 2024	February 15, 2025
6. January 1, 2025 to March 31, 2025	May 15, 2025
7. April 1, 2025 to June 30, 2025	August 15, 2025
8. July 1, 2025 to September 30, 2025	November 15, 2025
9. October 1, 2025 to December 31, 2025	February 15, 2026
10. January 1, 2026 to March 31, 2026	May 15, 2026
11. April 1, 2026 to June 30, 2026	August 15, 2026
12. July 1, 2026 to September 30, 2026	November 15, 2026
13. October 1, 2026 to December 31, 2026	February 15, 2027

Final Invoicing Periods*:

	Due no later than:
14. January 1, 2027 to March 31, 2027	May 15, 2027
15. April 1, 2027 to June 1, 2027	August 15, 2027

**Note: Project activity period ends December 31, 2026. The period of January 1, 2027, to June 1, 2027, is for completion of Final Local Evaluation Report and financial audit only.*

- B. All project expenses must be incurred by the end of the project activity period, December 31, 2026, and included on the final invoice due February 15, 2027. Project expenditures incurred after December 31, 2026 will not be reimbursed.
- C. The Final Local Evaluation Report is due to BSCC by June 1, 2027. Expenditures incurred for the completion of the Final Local Evaluation Report during the period of January 1, 2027, to June 1, 2027, must be submitted during the Final Invoicing Periods, with the final invoice due on August 15, 2027. Supporting fiscal documentation will be required for all expenditures claimed on during the Final Invoicing Periods and must be submitted with the final invoice.
- D. The Financial Audit Report is due to BSCC by June 1, 2027. Expenditures incurred for the completion of the financial audit during the period of January 1, 2027, to June 1, 2027, must be submitted during the Final Invoicing Periods, with the final invoice due on August 15, 2027. Supporting fiscal documentation will be required for all expenditures claimed during the Final Invoicing Periods and must be submitted with the final invoice.
- E. Grantee shall submit an invoice to the BSCC each invoicing period, even if grant funds are not expended or requested during the invoicing period.
- F. Upon the BSCC's request, supporting documentation must be submitted for project expenditures. Grantees are required to maintain supporting documentation for all

EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS

expenditures on the project site for the life of the grant and make it readily available for review during BSCC site visits. See Exhibit A. Scope of Work, Item 6. Project Records.

2. GRANT AMOUNT AND LIMITATION

- A. In no event shall the BSCC be obligated to pay any amount in excess of the grant award. Grantee waives any and all claims against the BSCC, and the State of California on account of project costs that may exceed the sum of the grant award.
- B. Under no circumstance will a budget item change be authorized that would cause the project to exceed the amount of the grant award identified in this Grant Agreement. In no event shall changes be authorized for the Administrative Salaries and Benefits line item that would result in that item exceeding ten percent (10%) of the grant award.

3. BUDGET CONTINGENCY CLAUSE

- A. This grant agreement is valid through Organized Retail Theft funding generated from the General Fund. The Grantee agrees that the BSCC's obligation to pay any sum to the grantee under any provision of this agreement is contingent upon the availability of sufficient funding granted through the passage of Senate Bill 154 (Chapter 43, Statutes of 2022), also known as the California Budget Act of 2022. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Grant Agreement does not appropriate sufficient funds for the program, this Grant Agreement shall be of no further force and effect. In this event, the BSCC shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Grant Agreement.
- B. If Organized Retail Theft funding is reduced or falls below estimates contained within the Organized Retail Theft Request for Proposals, the BSCC shall have the option to either cancel this Grant Agreement with no liability occurring to the BSCC or offer an amendment to this agreement to the Grantee to reflect a reduced amount.
- C. If BSCC cancels the agreement pursuant to Paragraph 3(B) or Grantee does not agree to an amendment in accordance with the option provided by Paragraph 3(B), it is mutually agreed that the Grant Agreement shall have no further force and effect. In this event, the BSCC shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Grant Agreement except that Grantee shall be required to maintain all project records required by Paragraph 6 of Exhibit A for a period of three (3) years following the termination of this agreement.

4. PROJECT COSTS

- A. The Grantee agrees to comply with the BSCC Grant Administration Guide requirements as posted on the BSCC website (currently the BSCC Grant Administration Guide July 2020) including any updated version that may be posted during term of the grant

EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS

agreement. BSCC will notify grantees whenever an updated version is posted. The BSCC Grant Administration Guide is available at:

https://www.bscc.ca.gov/s_correctionsplanningandprograms/

- B. The provisions of the BSCC Grant Administration Guide are incorporated by reference into this agreement and Grantee shall be responsible for adhering to the requirements set forth therein. To the extent any of the provisions of the BSCC Grant Administration Guide and this agreement conflict, the language in this agreement shall prevail.
- C. Grantee is responsible for ensuring that statements of expenditures submitted to the BSCC claim actual expenditures for eligible project costs.
- D. Grantee shall, upon demand, remit to the BSCC any grant funds not expended for eligible project costs or an amount equal to any grant funds expended by the Grantee in violation of the terms, provisions, conditions or commitments of this Grant Agreement.
- E. Grant funds must be used to support new program activities or to augment existing funds that expand current program activities. Grant funds shall not replace (supplant) any federal, state and/or local funds that have been appropriated for the same purpose. Violations can result in recoupment of monies provided under this grantor suspension of future program funding through BSCC grants.

5. PROMPT PAYMENT CLAUSE

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

6. WITHHOLDING OF GRANT DISBURSEMENTS

- A. The BSCC may withhold all or any portion of the grant funds provided by this Grant Agreement in the event the Grantee has materially and substantially breached the terms and conditions of this Grant Agreement.
- B. At such time as the balance of state funds allocated to the Grantee reaches five percent (5%), the BSCC may withhold that amount as security, to be released to the Grantee upon compliance with all grant provisions, including:
 - 1) submittal and approval of the final invoice;
 - 2) submittal and approval of the final progress report; and
- C. The BSCC will not reimburse Grantee for costs identified as ineligible for grant funding. If grant funds have been provided for costs subsequently deemed ineligible, the BSCC may either withhold an equal amount from future payments to the Grantee or require repayment of an equal amount to the State by the Grantee.
- D. In the event that grant funds are withheld from the Grantee, the BSCC's Executive Director or designee shall notify the Grantee of the reasons for withholding and advise the Grantee of the time within which the Grantee may remedy the failure or violation leading to the withholding.

7. EXECUTIVE ORDER N-6-22 – RUSSIA SANCTIONS

EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

8. PROJECT BUDGET

BSCC Budget Line Item	A. Grant Funds
1. Salaries and Benefits	\$0
2. Services and Supplies	\$0
3. Professional Services or Public Agency Subcontracts	\$19,100
4. Non-Governmental Organization (NGO) Subcontracts	\$0
5. Data Collection and Evaluation	\$45,000
6. Equipment/Fixed Assets	\$846,000
7. Financial Audit (Up to \$25,000)	\$25,000
8. Other (Travel, Training, etc.)	\$0
9. Indirect Costs	\$0
TOTALS	\$935,100

EXHIBIT C: GENERAL TERMS AND CONDITIONS (04/2017)

1. **APPROVAL:** This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT:** This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT:** Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. **INDEMNIFICATION:** Contractor agrees to indemnify, defend and hold harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement. This obligation shall survive any termination of this agreement.
6. **DISPUTES:** Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. **TERMINATION FOR CAUSE:** The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

EXHIBIT C: GENERAL TERMS AND CONDITIONS (04/2017)

8. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)
- Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
11. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 (<https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/Standard-Contract-Language>) are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

EXHIBIT C: GENERAL TERMS AND CONDITIONS (04/2017)

- 12. TIMELINESS:** Time is of the essence in this Agreement.
- 13. COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
- 14. GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
- 15. ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.
- A. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
 - B. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
 - C. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
 - D. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.
- 16. CHILD SUPPORT COMPLIANCE ACT:** For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

EXHIBIT C: GENERAL TERMS AND CONDITIONS (04/2017)

- A. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- B. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

- A. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Gov. Code § 14841.)
- B. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT D: SPECIAL TERMS AND CONDITIONS

1. GRANTEE'S GENERAL RESPONSIBILITY

- A. Grantee agrees to comply with all terms and conditions of this Grant Agreement. Review and approval by the BSCC is solely for the purpose of proper administration of grant funds, and shall not be deemed to relieve or restrict the Grantee's responsibility.
- B. Grantee is responsible for the performance of all project activities identified in Attachment 1: Organized Retail Theft Grant Program Request for Proposals (incorporated by reference) and Attachment 2: Organized Retail Theft Grant Program Grant Proposal.
- C. Grantee shall immediately advise the BSCC of any significant problems or changes that arise during the course of the project.

2. GRANTEE ASSURANCES AND COMMITMENTS

A. Compliance with Laws and Regulations

This Grant Agreement is governed by and shall be interpreted in accordance with the laws of the State of California. Grantee shall at all times comply with all applicable State laws, rules and regulations, and all applicable local ordinances.

B. Fulfillment of Assurances and Declarations

Grantee shall fulfill all assurances, declarations, representations, and statements made by the Grantee in Attachment 1: Organized Retail Theft Grant Program Request for Proposals (incorporated by reference) and Attachment 2: Organized Retail Theft Grant Program Grant Proposal, documents, amendments, approved modifications, and communications filed in support of its request for grant funds.

C. Permits and Licenses

Grantee agrees to procure all permits and licenses necessary to complete the project, pay all charges and fees, and give all notices necessary or incidental to the due and lawful proceeding of the project work.

3. POTENTIAL SUBCONTRACTORS

- A. In accordance with the provisions of this Grant Agreement, the Grantee may subcontract for services needed to implement and/or support program activities. Grantee agrees that in the event of any inconsistency between this Grant Agreement and Grantee's agreement with a subcontractor, the language of this Grant Agreement will prevail.
- B. Nothing contained in this Grant Agreement or otherwise, shall create any contractual relation between the BSCC and any subcontractors, and no subcontract shall relieve the Grantee of his responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible to the BSCC for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Grantee. The Grantee's obligation to pay its subcontractors is an independent obligation from the BSCC's obligation to make payments to the Grantee. As a result, the BSCC shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

EXHIBIT D: SPECIAL TERMS AND CONDITIONS

- C. Grantee shall ensure that all subcontractors comply with the eligibility requirements stated in the ARG Rehabilitation of Existing Property or Building Project RFP and described in Appendix B.
- D. Grantee assures that for any subcontract awarded by the Grantee, such insurance and fidelity bonds, as is customary and appropriate, will be obtained.
- E. Grantee agrees to place appropriate language in all subcontracts for work on the project requiring the Grantee's subcontractors to:

1) Books and Records

Maintain adequate fiscal and project books, records, documents, and other evidence pertinent to the subcontractor's work on the project in accordance with generally accepted accounting principles. Adequate supporting documentation shall be maintained in such detail so as to permit tracing transactions from the invoices, to the accounting records, to the supporting documentation. These records shall be maintained for a minimum of three (3) years after the acceptance of the final grant project audit under the Grant Agreement, and shall be subject to examination and/or audit by the BSCC or designees, state government auditors or designees, or by federal government auditors or designees.

2) Access to Books and Records

Make such books, records, supporting documentations, and other evidence available to the BSCC or designee, the State Controller's Office, the Department of General Services, the Department of Finance, California State Auditor, and their designated representatives during the course of the project and for a minimum of three (3) years after acceptance of the final grant project audit. The Subcontractor shall provide suitable facilities for access, monitoring, inspection, and copying of books and records related to the grant-funded project.

4. PROJECT ACCESS

Grantee shall ensure that the BSCC, or any authorized representative, will have suitable access to project activities, sites, staff and documents at all reasonable times during the grant period including those maintained by subcontractors. Access to program records will be made available by both the grantee and the subcontractors for a period of three (3) years following the end of the grant of the project.

5. ACCOUNTING AND AUDIT REQUIREMENTS

- A. Grantee agrees that accounting procedures for grant funds received pursuant to this Grant Agreement shall be in accordance with generally accepted government accounting principles and practices, and adequate supporting documentation shall be maintained in such detail as to provide an audit trail. Supporting documentation shall permit the tracing of transactions from such documents to relevant accounting records, financial reports and invoices.

EXHIBIT D: SPECIAL TERMS AND CONDITIONS

- B. The BSCC reserves the right to call for a program or financial audit at any time between the execution of this Grant Agreement and three years following the end of the grant period. At any time, the BSCC may disallow all or part of the cost of the activity or action determined to not be in compliance with the terms and conditions of this Grant Agreement or take other remedies legally available.

6. DEBARMENT, FRAUD, THEFT OR EMBEZZLEMENT

It is the policy of the BSCC to protect grant funds from unreasonable risks of fraudulent, criminal, or other improper use. As such, the Board will not enter into contracts or provide reimbursement to grantees that have been:

1. debarred by any federal, state, or local government entities during the period of debarment; or
2. convicted of fraud, theft, or embezzlement of federal, state, or local government grant funds for a period of three years following conviction.

Furthermore, the BSCC requires grant recipients to provide an assurance that there has been no applicable debarment, disqualification, suspension, or removal from a federal, state or local grant program on the part of the grantee at the time of application and that the grantee will immediately notify the BSCC should such debarment or conviction occur during the term of the Grant contract.

BSCC also requires that all grant recipients include, as a condition of award to a subgrantee or subcontractor, a requirement that the subgrantee or subcontractor will provide the same assurances to the grant recipient. If a grant recipient wishes to consider a subgrantee or subcontractor that has been debarred or convicted, the grant recipient must submit a written request for exception to the BSCC along with supporting documentation.

All Grantees must have on file with the BSCC a completed and signed Certification of Compliance with BSCC Policies on Debarment, Fraud, Theft and Embezzlement (Required as Appendix E of the original Proposal Package).

7. MODIFICATIONS

No change or modification in the project will be permitted without prior written approval from the BSCC. Changes may include modification to project scope, changes to performance measures, compliance with collection of data elements, and other significant changes in the budget or program components contained in the Attachment 1: Organized Retail Theft Grant Program Request for Proposals and Attachment 2: Organized Retail Theft Grant Program Grant Proposal. Changes shall not be implemented by the project until authorized by the BSCC.

8. TERMINATION

- A. This Grant Agreement may be terminated by the BSCC at any time after grant award and prior to completion of project upon action or inaction by the Grantee that constitutes a

EXHIBIT D: SPECIAL TERMS AND CONDITIONS

material and substantial breach of this Grant Agreement. Such action or inaction includes but is not limited to:

- 1) substantial alteration of the scope of the grant project without prior written approval of the BSCC;
 - 2) refusal or inability to complete the grant project in a manner consistent with Attachment 1: Organized Retail Theft Grant Program Request for Proposals and Attachment 2: Organized Retail Theft Grant Program Grant Proposal, or approved modifications;
 - 3) failure to meet prescribed assurances, commitments, recording, accounting, auditing, and reporting requirements of the Grant Agreement.
- B. Prior to terminating the Grant Agreement under this provision, the BSCC shall provide the Grantee at least 30 calendar days written notice stating the reasons for termination and effective date thereof. The Grantee may appeal the termination decision in accordance with the instructions listed in Exhibit D: Special Terms and Conditions, Number 9. Settlement of Disputes.

9. SETTLEMENT OF DISPUTES

- A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the Grantee shall submit to the BSCC Corrections Planning and Grant Programs Division Deputy Director a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Grant Agreement. Grantee's written demand shall be fully supported by factual information. The BSCC Corrections Planning and Grant Programs Division Deputy Director shall have 30 days after receipt of Grantee's written demand invoking this Section "Disputes" to render a written decision. If a written decision is not rendered within 30 days after receipt of the Grantee's demand, it shall be deemed a decision adverse to the Grantee's contention. If the Grantee is not satisfied with the decision of the BSCC Corrections Planning and Grant Programs Division Deputy Director, the Grantee may appeal the decision, in writing, within 15 days of its issuance (or the expiration of the 30-day period in the event no decision is rendered), to the BSCC Executive Director, who shall have 45 days to render a final decision. If the Grantee does not appeal the decision of the BSCC Corrections Planning and Grant Programs Division Deputy Director, the decision shall be conclusive and binding regarding the dispute and the Contractor shall be barred from commencing an action in court, or with the Victims Compensation Government Claims Board, for failure to exhaust Grantee's administrative remedies.
- B. Pending the final resolution of any dispute arising under, related to or involving this Grant Agreement, Grantee agrees to diligently proceed with the performance of this Grant Agreement, including the providing of services in accordance with the Grant Agreement. Grantee's failure to diligently proceed in accordance with the State's instructions regarding this Grant Agreement shall be considered a material breach of this Grant Agreement.

EXHIBIT D: SPECIAL TERMS AND CONDITIONS

- C. Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Executive Director, if an appeal was made. If the Executive Director fails to render a final decision within 45 days after receipt of the Grantee's appeal for a final decision, it shall be deemed a final decision adverse to the Grantee's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless the Grantee commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- D. The dates of decision and appeal in this section may be modified by mutual consent, as applicable, excepting the time to commence an action in a court of competent jurisdiction.

10. UNION ACTIVITIES

For all agreements, except fixed price contracts of \$50,000 or less, the Grantee acknowledges that applicability of Government Code §§16654 through 16649 to this Grant Agreement and agrees to the following:

- A. No State funds received under the Grant Agreement will be used to assist, promote or deter union organizing.
- B. Grantee will not, for any business conducted under the Grant Agreement, use any State property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the State property is equally available to the general public for holding meetings.
- C. If Grantee incurs costs or makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no reimbursement from State funds has been sought for these costs, and that Grantee shall provide those records to the Attorney General upon request.

11. WAIVER

The parties hereto may waive any of their rights under this Grant Agreement unless such waiver is contrary to law, provided that any such waiver shall be in writing and signed by the party making such waiver.

Flock Safety + CA - National City PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Antouan Benbalit
anton.benbalit@flocksafety.com
2064321524

Company Overview

At Flock Safety, technology unites law enforcement and the communities they serve to eliminate crime and shape a safer future, together. We created the first public safety operating system to enable neighborhoods, schools, businesses, and law enforcement to work together to collect visual, audio, and situational evidence across an entire city to solve and prevent crime.

Our connected platform, comprised of License Plate Recognition (LPR), live video, audio detection, and a suite of integrations (AVL, CAD & more), alerts law enforcement when an incident occurs and turns unbiased data into objective answers that increase case clearance, maximize resources, and reduce crime -- all without compromising transparency or human privacy.

Join thousands of agencies reducing crime with Flock Safety's public safety operating system

2000+	120	1B+	<60%*
communities with private-public partnerships	incident alerts / minute	1B+ vehicles detected / month	<60% local crime reduction in Flock cities

*According to a 2019 study conducted by Cobb County Police Department

Introduction

Layer Intelligence to Solve More Crime

The pathway to a safer future looks different for every community. As such, this proposal presents a combination of products that specifically addresses your public safety needs, geographical layout, sworn officer count, and budget. These components make up your custom public safety operating system, a connected device network and software platform designed to transform real-time data into a panoramic view of your jurisdiction and help you zero in on the leads that solve more cases, prevent future crimes, and foster trust in the communities you serve.

Software Platform

Flock Safety's out-of-box software platform collects and makes sense of visual, audio, and situational evidence across your entire network of devices.

Out-of-Box Software Features

<p>Simplified Search</p>	<p>Get a complete view of all activity tied to one vehicle in your network of privately and publicly owned cameras. The user-friendly search experience allows officers to filter hours of footage in seconds based on time, location, and detailed vehicle criteria using patented Vehicle Fingerprint™ technology. Search filters include:</p> <ul style="list-style-type: none"> ● Vehicle make ● Body type ● Color ● License plates <ul style="list-style-type: none"> ○ Partial tags ○ Missing tags ○ Temporary tags ○ State recognition ● Decals ● Bumper stickers ● Back racks ● Top racks
<p>National and Local Sharing</p>	<p>Access 1B+ additional plate reads each month without purchasing more cameras. Solve cross-jurisdiction crimes by opting into Flock Safety's sharing networks, including one-to-one, national, and statewide search networks. Users can also receive alerts from several external LPR databases:</p> <p style="text-align: center;"> <i>California SVS</i> <i>FDLE</i> <i>FL Expired Licenses</i> <i>FL Expired Tags</i> <i>FL Sanctioned Drivers</i> <i>FL Sex Offenders</i> <i>Georgia DOR</i> <i>IL SOS</i> <i>Illinois Leads</i> <i>NCIC</i> <i>NCMEC Amber Alert</i> <i>REJIS</i> <i>CCIC</i> <i>FBI</i> </p>
<p>Real-time Alerts</p>	<p>Receive SMS, email, and in-app notifications for custom Hot Lists, NCIC wanted lists, AMBER alerts, Silver alerts, Vehicle Fingerprint matches, and more.</p>
<p>Interactive ESRI Map</p>	<p>View your AVL, CAD, traffic, and LPR alerts alongside live on-scene video from a single interactive map for a birdseye view of activity in your jurisdiction.</p>
<p>Vehicle Location Analysis</p>	<p>Visualize sequential Hot List alerts and the direction of travel to guide officers to find suspect vehicles faster.</p>

Out-of-Box Software Features (Continued)

Transparency Portal	Establish community trust with a public-facing dashboard that shares policies, usage, and public safety outcomes related to your policing technology.
Insights Dashboard	Access at-a-glance reporting to easily prove ROI, discover crime and traffic patterns and prioritize changes to your public safety strategy by using data to determine the most significant impact.
Native MDT Application	Download FlockOS to your MDTs to ensure officers never miss a Hot List alert while out on patrol.
Hot List Attachments	Attach relevant information to Custom Hot List alerts. Give simple, digestible context to Dispatchers and Patrol Officers responding to Hot List alerts so they can act confidently and drive better outcomes. When you create a custom Hot List Alert, add case notes, photos, reports, and other relevant case information.
Single Sign On (SSO)	Increase your login speed and information security with Okta or Azure Single Sign On (SSO). Quickly access critical information you need to do your job by eliminating the need for password resets and steps in the log-in process.

License Plate Recognition

The Flock Safety Falcon® LPR camera uses Vehicle Fingerprint™ technology to transform hours of footage into actionable evidence, even when a license plate isn't visible, and sends Hot List alerts to law enforcement users when a suspect vehicle is detected. The Falcon has fixed and location-flexible deployment options with 30% more accurate reads than leading LPR.*

*Results from the 2019 side-by-side comparison test conducted by LA County Sheriff's Department

Flock Safety Falcon® LPR Camera	Flock Safety Falcon® Flex	Flock Safety Falcon® LR
<p>Fixed, infrastructure-free LPR camera designed for permanent placement.</p> <p>√ 1 Standard LPR Camera</p> <p>√ Unlimited LTE data service + Flock OS platform licenses</p> <p>√ 1 DOT breakaway pole</p> <p>√ Dual solar panels</p> <p>√ Permitting, installation, and ongoing maintenance</p>	<p>Location-flexible LPR camera designed for fast, easy self-installation, which is ideal for your ever-changing investigative needs.</p> <p>√ 1 LPR Camera</p> <p>√ Unlimited LTE data service + software licenses</p> <p>√ 1 portable mount with varying-sized band clamps</p> <p>√ 1 Charger for internal battery</p> <p>√ 1 hardshell carrying case</p>	<p>Long-range, high-speed LPR camera that captures license plates and Vehicle Fingerprint data for increasing investigative leads on high-volume roadways like highways and interstates.</p> <p>√ 1 Long-Range LPR Camera</p> <p>√ Computing device in protective poly case</p> <p>√ AC Power</p> <p>√ Permitting, installation, and ongoing maintenance</p>

Your Flock Safety Team

Flock Safety is more than a technology vendor; we are a partner in your mission to build a safer future. We work with thousands of law enforcement agencies across the US to build stronger, safer communities that celebrate the hard work of those who serve and protect. We don't disappear after contracts are signed; we pride ourselves on becoming an extension of your hard-working team as part of our subscription service.

Implementation	Meet with a Solutions Consultant (former LEO) to build a deployment plan based on your needs. Our Permitting Team and Installation Technicians will work to get your device network approved, installed, and activated.
User Training + Support	Your designated Customer Success Manager will help train your power users and ensure you maximize the platform, while our customer support team will assist with needs as they arise.
Maintenance	We proactively monitor the health of your device network. If we detect that a device is offline, a full-time technician will service your device for no extra charge. <i>Note: Ongoing maintenance does not apply to Falcon Flex devices.</i>
Public Relations	Government Affairs Get support educating your stakeholders, including city councils and other governing bodies. Media Relations Share crimes solved in the local media with the help of our Public Relations team.



EXHIBIT A
ORDER FORM

Customer: CA - National City PD
 Legal Entity Name: CA - National City PD
 Accounts Payable Email: daydelotte@nationalcityca.gov
 Address: 1200 National City Blvd National City,
 California 91950

Initial Term: 36 Months
 Renewal Term: 12 Months (3 Renewals)
 Payment Terms: Net 30
 Billing Frequency:
 Retention Period: 30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$282,000.00
Flock Safety Flock OS			
FlockOS™	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon®	Included	94	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Standard Implementation Fee	\$650.00	10	\$6,500.00
Professional Services - Existing Infrastructure Implementation Fee	\$150.00	84	\$12,600.00
Subtotal Year 1:			\$301,100.00
Annual Recurring Subtotal:			\$282,000.00
Estimated Tax:			\$0.00
Contract Total:			\$865,100.00

Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "Renewal Term") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

Product and Services Description

Flock Safety Platform Items	Product Description	Terms
Flock Safety Falcon ®	An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes.	The Term shall commence upon first installation and validation of Flock Hardware.

One-Time Fees	Service Description
Installation on existing infrastructure	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Advanced Implementation Fee	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.

By executing this Order Form, Customer represents and warrants that it has read and agrees to all of the terms and conditions contained in the Master Services Agreement attached. The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Customer: CA - National City PD

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PO Number: _____

Master Services Agreement

This Master Services Agreement (this “*Agreement*”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 (“*Flock*”) and the entity identified in the signature block (“*Customer*”) (each a “*Party*,” and together, the “*Parties*”) on this the 12 day of October 2023. This Agreement is effective on the date of mutual execution (“*Effective Date*”). Parties will sign an Order Form (“*Order Form*”) which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**. The Parties agree as follows:

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution through Flock’s technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer (“*Notifications*”);

WHEREAS, Customer desires access to the Flock Services (defined below) on existing devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

WHEREAS, Customer shall have access to the Footage in Flock Services. Pursuant to Flock’s standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the *Order Form*. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

WHEREAS, Flock desires to provide Customer the Flock Services and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations and evidence gathering for law enforcement purposes, (“*Permitted Purpose*”).

AGREEMENT

NOW, THEREFORE, Flock and Customer agree that this Agreement, and any Order Form, purchase orders, statements of work, product addenda, or the like, attached hereto as exhibits and incorporated by reference, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Anonymized Data**” means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.2 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.3 “**Customer Data**” means the data, media and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.4. “**Customer Hardware**” means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5 “**Embedded Software**” means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.6 “**Flock Hardware**” means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable product addenda.

1.7 “**Flock IP**” means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.8 “**Flock Network End User(s)**” means any user of the Flock Services that Customer authorizes access to or receives data from, pursuant to the licenses granted herein.

1.9 “**Flock Services**” means the provision of Flock’s software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.10 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.11 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e., NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.12 “**Installation Services**” means the services provided by Flock for installation of Flock Services.

1.13 “**Retention Period**” means the time period that the Customer Data is stored within the cloud storage, as specified in the product addenda.

1.14 “**Vehicle Fingerprint™**” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

1.15 “**Web Interface**” means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the data retention time defined on the Order Form (“*Retention Period*”). Authorized End Users will be required to sign up for an account and select a password and username (“*User ID*”). Customer shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, including any acts or omissions of authorized End user which would constitute a breach of this agreement if undertaken by customer. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 Embedded Software License. Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 Support Services. Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as “*Support Services*”).

2.4 Upgrades to Platform. Flock may make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock’s products or services to its agencies, the competitive strength of, or market for, Flock’s products or services, such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 Service Interruption. Services may be interrupted in the event that: (a) Flock’s provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance (“*Service Interruption*”). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer’s direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 Service Suspension. Flock may temporarily suspend Customer’s and any Authorized End User’s access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer’s or any Authorized End User’s use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer’s account (“*Service Suspension*”). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 Hazardous Conditions. Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3. CUSTOMER OBLIGATIONS

3.1 Customer Obligations. Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up to date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services. Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as “*Customer Obligations*”).

3.2 Customer Representations and Warranties. Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 Customer Data. As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 Customer Generated Data. Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages,

text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (“**Customer Generated Data**”). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer’s intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 Anonymized Data. Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 Confidentiality. To the extent required by any applicable public records requests, each Party (the “**Receiving Party**”) understands that the other Party (the “**Disclosing Party**”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “**Proprietary Information**” of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any

such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 Usage Restrictions on Flock IP. Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 Disclosure of Footage. Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 Billing and Payment of Fees. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 Notice of Changes to Fees. Flock reserves the right to change the fees for subsequent Renewal Terms by providing sixty (60) days' notice (which may be sent by email) prior to the end of the Initial Term or Renewal Term (as applicable).

6.3 Late Fees. If payment is not issued to Flock by the due date of the invoice, an interest penalty of 1.0% of any unpaid amount may be added for each month or fraction thereafter, until final payment is made.

6.4 Taxes. Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge customer any taxes from which it is exempt. If any deduction or

withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form (the “*Term*”). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “*Renewal Term*”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 **Termination.** Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period (“*Cure Period*”). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the *Cure Period*, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 **Survival.** The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 11.1 and 11.6.

8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 **Manufacturer Defect.** Upon a malfunction or failure of Flock Hardware or Embedded Software (a “*Defect*”), Customer must notify Flock’s technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 **Replacements.** In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that (1) Flock Services will be materially affected, and (2) that Flock shall have no liability to Customer regarding such affected Flock Services, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 **Warranty.** Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock’s reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 **Disclaimer.** THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER’S SOLE REMEDY, AND FLOCK’S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 **Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF

LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION 10.6.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 Flock Indemnity. Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 Ownership of Hardware. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at

Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 Deployment Plan. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

10.3 Changes to Deployment Plan. After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (<https://www.flocksafety.com/reinstall-fee-schedule>). Customer will receive prior notice and confirm approval of any such fees.

10.4 Customer Installation Obligations. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C ("***Customer Obligations***"). Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 Flock's Obligations. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 Compliance With Laws. Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 Entire Agreement. This Agreement, together with the Order Form(s), the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon future purchase order is subject to these legal terms and does not alter the rights and obligations under this Agreement, except that future purchase orders may outline additional products, services, quantities and billing terms to be mutually accepted by Parties. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 Governing Law; Venue. This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 Special Terms. Flock may offer certain special terms which are indicated in the proposal and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("*Special Terms*"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 Publicity. Flock has the right to reference and use Customer's name and trademarks and disclose the nature of the Services in business and development and marketing efforts.

11.9 Feedback. If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 Export. Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Morality.** In the event Customer or its agents become the subject of an indictment, contempt, scandal, crime of moral turpitude or similar event that would negatively impact or tarnish Flock's reputation, Flock shall have the option to terminate this Agreement upon prior written notice to Customer.

11.15 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt to the address listed on the Order Form (or, if different, below), if sent by certified or registered mail, return receipt requested.

11.16 **Non-Appropriation.** Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of funds are conditioned on the availability of funds appropriated for that purpose. Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

Customer NOTICES ADDRESS:

ADDRESS:

ATTN:

EMAIL:

EXHIBIT B
INSURANCE

Required Coverage. Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than “A” and “VII”. Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement. Flock shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all Flock employees.

Types and Amounts Required. Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

(i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;

(ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate;

(iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate;

(iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and

(v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars (\$5,000,000).



Sole Source Letter for Flock Safety™ ALPR Cameras and Solution

Flock Safety is the sole manufacturer and developer of the Flock Safety ALPR Camera. Flock Safety is also the sole provider of the comprehensive monitoring, processing, and machine vision services which integrate with the Flock Safety ALPR Camera.

The Flock Safety ALPR camera and devices are the only Law Enforcement Grade ALPR System to offer the following combination of proprietary features:

1. **Partnerships:**

- Flock Safety is the only LPR provider to officially partner with AXON to be natively and directly integrated into Evidence.com
- Flock Safety is the only LPR provider to be fully integrated into a dynamic network of Axon's Fleet 3 mobile ALPR cameras for patrol cars and Flock Safety's Falcon cameras
- Access to additional cameras purchased by our HOA and private business partners, means an ever-increasing amount of cameras and data at no additional cost
- Ability to potential access additional cameras from Flock Customers, including: Coronado, El Cajon, Oceanside, Dana Point, Laguna Beach, OCSD, RSCO, Santa Monica, Culver City, and over 200+ others in the greater CA region. , at no additional cost

2. **Vehicle Fingerprint Technology™:**

- Patented proprietary machine vision to analyze vehicle license plate, state recognition, and vehicle attributes such as color, type, make and objects (roof rack, bumper stickers, etc.) based on image analytics (not car registration data)
- Machine vision to capture and identify characteristics of vehicles with a paper license plate and vehicles with the absence of a license plate
- Ability to 'Save Search' based on description of vehicles using our patented Vehicle Fingerprint Technology without the need for a license plate, and set up alerts based on vehicle description
- Only LPR provider with "Visual Search" which can transform digital images from any source into an investigative lead by finding matching vehicles based on the vehicle attributes in the uploaded photo
- Falcon Flex™: an infrastructure-free, location-flexible license plate reader camera that is easy to self install. Falcon Flex ties seamlessly into the Flock ecosystem with a small and lightweight camera with the ability to read up to 30,000 license plates and vehicle attributes on a single battery charge

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3. Integrated Cloud-Software & Hardware Platform:

- Ability to capture two (2+) lanes of traffic simultaneously with a single camera from a vertical mass
- Best in class ability to capture and process up to 30,000 vehicles per day with a single camera powered exclusively by solar power
- Wireless deployment of solar powered license plate reading cameras with integrated cellular communication weighing less than 5lbs and able to be powered solely by a solar panel of 60W or less
- Web based footage retrieval tool with filtering capabilities such as vehicle color, vehicle type, vehicle manufacturer, partial or full license plate, state of license plate, and object detection
- Utilizes motion capture to start and stop recording without the need for a reflective plate
- Motion detection allows for unique cases such as bicycle capture, ATV, motorcycle, etc.
- On device machine processing to limit LTE bandwidth consumption
- Cloud storage of footage
- Covert industrial design for minimizing visual pollution

4. Transparency & Ethical Product Design:

- One-of-a-kind “Transparency Portal” public-facing dashboard that details the policies in place by the purchaser, as well as automatically updated metrics from the Flock system
- Built-in integration with NCMEC to receive AMBER Alerts to find missing children
- Privacy controls to enable certain vehicles to “opt-out” of being captured

5. Integrated Audio & Gunshot Detection:

- Natively integrated audio detection capabilities utilizing machine learning to recognize audio signatures typical of crimes in progress (e.g., gunshots)

6. Live Video Integration:

- Ability to apply computer vision to third-party cameras using Wing™ LPR, transforming them to evidence capture devices using the same Vehicle Fingerprint technology offered on the Flock Safety Falcon™ ALPR cameras
- Wing™ Livestream integrates live stream traffic cameras, publicly or privately owned livestream security cameras into one cloud-based situational awareness dashboard to increase response time in mission-critical incidents
- Manage various government intelligence including ALPR, livestream cameras, CAD, automatic vehicle location (AVL) on Flock Safety’s Wing™ Suite

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- Access Wing™ Replay to unlock enhanced situational awareness with 7-day footage retention, Hot List Live Video Instant Replay, and downloadable MP4

7. Warranty & Service:

- Lifetime maintenance and support included in subscription price
- Flock Safety is the only fully integrated ALPR one-stop solution from production of the camera to delivery and installation
- Performance monitoring software to predict potential failures, obstructions, tilts, and other critical or minor issues

Thank you,

A black rectangular redaction box covering a signature. A handwritten mark, possibly the letter 'A', is visible above the box.

Garrett Langley CEO, Flock Safety

RESOLUTION NO. 2023 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, 1) AUTHORIZING THE ACCEPTANCE OF THE ORGANIZED RETAIL THEFT PREVENTION GRANT PROGRAM FUNDS IN THE AMOUNT OF \$935,100 FROM THE BOARD OF STATE AND COMMUNITY CORRECTIONS, 2) AUTHORIZING THE ESTABLISHMENT OF AN APPROPRIATION AND CORRESPONDING REVENUE BUDGET IN THE AMOUNT OF \$935,100, 3) WAIVING THE FORMAL BID PROCESS PURSUANT TO NATIONAL CITY MUNICIPAL CODE SECTION 2.60.220, AND 4) AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH FLOCK SAFETY TO IMPLEMENT AN AUTOMATED LICENSE PLATE READER PROGRAM.

WHEREAS, the State Budget Act of 2022 (Senate Bill 154, Chapter 43, Statutes of 2022) established the Organized Retail Theft Prevention Grant Program (ORT Grant), administered by the Board of State and Community Corrections (BSCC); and

WHEREAS, the ORT Grant funding is available to California city police departments, sheriff departments, and probation departments to support local law enforcement agencies in preventing and responding to organized retail theft, motor vehicle or motor vehicle accessory theft, or cargo theft; and

WHEREAS, the BSCC awarded ORT Grant funding to the National City Police Department (NCPD) in the amount of \$935,100; and

WHEREAS, the permissible uses of ORT Grant funds include, but are not limited to, purchase or lease of technology or other equipment to help deter or respond to organized retail, vehicle, and cargo theft; and

WHEREAS, the ORT Grant funds shall be used to supplement and not supplant existing funds for these activities; and

WHEREAS, the ORT Grant does not require the City to allocate any upfront costs or matching funds; and

WHEREAS, the Automated License Plate Reader (ALPR) system available from Flock Safety best meets the needs of the City for this service because it is the only system that meets the City's need for a stationary mounted system and it will integrate with existing Police Department Software and systems through Axon; and

WHEREAS, subsections (B) and (C) of section 2.60.220 of the National City Municipal Code authorize waiving the formal bid process where the commodity can be obtained from only one source and where a commodity or service is required to integrate with or be compatible with existing systems, respectively; and

WHEREAS, NCPD desires to allocate the ORT Grant funds to implement an ALPR program through Flock Safety, including installation on existing infrastructure which includes site and safety assessment, camera setup and testing, and shipping and handling of 94 units of ALPRs.

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

- Section 1:** That the City Council hereby authorizes the acceptance of the Organized Retail Theft Prevention Grant funds from the Board of State and Community Corrections in the amount of \$935,100 and authorizes the establishment of appropriation and a corresponding revenue budget in the amount of \$935,100.
- Section 2:** That the formal bid process for acquisition of the Automated License Plate Reader (ALPR) system is waived pursuant to subsections (B) and (C) of the National City Municipal Code 2.60.220(B) because the desired ALPR system can only be obtained from one source and is required to integrate with existing City systems.
- Section 3:** That the City Council hereby authorizes the City Manager to execute an agreement with Flock Group, Inc. dba Flock Safety to implement an ALPR program.
- Section 4:** That 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 21st day of November, 2023.

Ron Morrison, Mayor

ATTEST:

Shelley Chapel, MMC, City Clerk

APPROVED AS TO FORM:

Barry J. Schultz, City Attorney



AGENDA REPORT

Department: Engineering
Prepared by: Tirza Gonzales, Operations Manager
Meeting Date: Tuesday, November 21, 2023
Approved by: Ben Martinez, Interim City Manager

SUBJECT:

Second Amendments to On-Call Consultant Agreements for City's Capital Improvement Program (CIP)

RECOMMENDATION:

Adopt a Resolution Entitled, "Resolution of the City Council of the City of National City, California, Authorizing the Mayor to Execute Second Amendments to the Agreements by One Year and Increase the Not-to-Exceed Amounts by \$1,000,000 each for a Total Not-to-Exceed Amount of \$4,000,000 each." With the following On-Call Consultants: A) HDR Engineering, Inc.; B) Kimley-Horn and Associates, Inc.; C) KTU&A; D) NV5, Inc.; and E) WSP USA Inc.."

BOARD/COMMISSION/COMMITTEE PRIOR ACTION:

Not Applicable.

EXPLANATION:

The Engineering & Public Works Department advertised a Request for Qualifications (RFQ) for various engineering, architectural and construction support services, housing and real estate development services, and environmental compliance services on May 1, 2019.

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 to encourage local participation, which was attended by over 100 people. The Department received 71 Statement of Qualifications (SOQs) from various firms by the June 10, 2019 deadline.

Based on the strength of their SOQs, interviews and past performance, the City of National City entered into Agreements with several consultants to provide on-call support services for National City's Capital Improvement Program (CIP). The original Agreements were all for a not-to-exceed amount of \$2,000,000 and a term of three years, with the option for two one-year extensions.

Based on the consultants' performances and quality of work, expiring agreements, increased staffing demands, and to ensure timely completion of CIPs, if approved tonight, action would authorize the City to execute:

Second Amendments to extend Agreements by one year and increase the not-to-exceed amounts of the Agreements by \$1,000,000 each, for a total not-to-exceed amount of \$4,000,000 each, for the below listed consultants:

1. **HDR Engineering, Inc.:** Project management; civil engineering; plan reviews; constructability reviews; construction support; long-range planning for multiple disciplines; grants management; community outreach and communications
2. **Kimley-Horn and Associates, Inc.:** Project management; civil engineering; traffic engineering; transportation planning; plan reviews; constructability reviews; long-range planning on multiple disciplines; grants management; community outreach and communications
3. **KTU&A:** Project management; landscape architecture and urban design; transportation planning; geographic information systems; long-range planning for multiple disciplines; grants management; community outreach and communications
4. **NV5, Inc.:** Project management; engineering; construction management, inspections and certified payroll; plan reviews; constructability review; land surveying; environmental assessments; geotechnical; construction support; community outreach and communications
5. **WSP USA Inc.:** Project management; traffic engineering; transportation planning; plan reviews; constructability reviews; long-range planning on multiple disciplines; grants management; community outreach and communications

Due to the size and type of projects and the expertise of the consultants, expenditure amounts may vary amongst the firms. Consultant tasks will be performed on an as-needed on-call basis and funded by appropriations approved through CIP and Budget processes. The City's 5-Year CIP projects are estimated at approximately \$73 million in capital improvements over the next five years. The City's implementation rate averages about fifteen projects a year totaling approximately \$15.3 million. Staff plans to advertise a new Request for Qualifications in 2024.

Staff is recommending authorizing the Resolution as stated.

Consultant*	Reso No.	Agreement Start Date/ Amendment End Dates	Original Agreement	First Amendment	Second Amendment	Total Agreement	Total Expenditures & Encumbrances as of Oct. 2023
1. HDR Engineering, Inc. First Amendment Second Amendment	2019-175 2022-172	12/03/2019 12/2/2023 12/2/2024	\$2,000,000	\$1,000,000 \$1,000,000	\$1,000,000	\$4,000,000	\$761,835.50
2. Kimley-Horn and Assoc., Inc. First Amendment Second Amendment	2020-11 2022-172	1/21/2020 1/21/2024 1/21/2025	\$2,000,000	\$1,000,000 \$1,000,000	\$1,000,000	\$4,000,000	\$2,314,164.75
3. KTU&A First Amendment Second Amendment	2019-176 2022-172	12/3/2019 12/02/2023 12/02/2024	\$2,000,000	\$1,000,000 \$1,000,000	\$1,000,000	\$4,000,000	\$881,823.00
4. NV5, Inc. First Amendment Second Amendment	2019-177 2022-172	12/3/2019 12/02/2023 12/02/2024	\$2,000,000	\$1,000,000 \$1,000,000	\$1,000,000	\$4,000,000	\$946,536.64
5. WSP USA Inc. First Amendment Second Amendment	2019-163 2021-122	11/19/2019 12/02/2023 12/02/2024	\$2,000,000	\$1,000,000 \$1,000,000	\$1,000,000	\$4,000,000	\$1,784,750.94

*See Exhibit B for Consultant Project/Tasks

FINANCIAL STATEMENT:

Funding appropriated through CIP and budget processes.

RELATED CITY COUNCIL 2020-2025 STRATEGIC PLAN GOAL:

Not Applicable

ENVIRONMENTAL REVIEW:

This is not a project under CEQA and is therefore not subject to environmental review.CCR15378;
PRC 21065.

PUBLIC NOTIFICATION:

Agenda Report posted within 72 hours of meeting date and time in accordance with Brown Act.

ORDINANCE:

Not Applicable

EXHIBITS:

Exhibit A – Amendments

Exhibit B – Consultant Projects Tasks

Exhibit C – Resolution

**SECOND AMENDMENT TO THE AGREEMENT BY
AND BETWEEN
THE CITY OF NATIONAL CITY AND
HDR ENGINEERING, INC.**

THIS SECOND AMENDMENT TO THE AGREEMENT is entered into by and between the CITY OF NATIONAL CITY, a municipal corporation ("CITY"), and HDR ENGINEERING, INC., a Nebraska corporation (the "CONSULTANT").

RECITALS

WHEREAS, the City Council adopted Resolution No. 2019-175 approving an Agreement ("the Agreement") with the CONSULTANT for the term of December 3, 2019 through December 2, 2022, 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; civil engineering; plan reviews; constructability reviews; construction support; long range planning for multiple disciplines; grants management; community outreach and communications, for a not-to-exceed amount of \$2,000,000, and an initial term of three (3) years, with the option to extend this term for up to two (2) one-year extensions; and,

WHEREAS, the City Council adopted Resolution No. 2022-172 approving the First Amendment to the Agreement, increasing the \$2,000,000 not-to-exceed amount by \$1,000,000 for a total not-to-exceed amount of \$3,000,000, and exercising the first of two (2) extensions extending the Agreement by one (1) year to December 2, 2023; 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 the CITY's CIP, and the CONSULTANT is willing to perform such services; and

WHEREAS, the parties desire to amend the Agreement by exercising the second of the two (2) one-year extensions to extend the term of the Agreement to December 2, 2024, and to increase the not-to-exceed amount by \$1,000,000 for a not-to-exceed amount of \$4,000,000.

AGREEMENT

NOW, THEREFORE, the parties hereto agree that:

1. The December 3, 2019 Agreement, as previously amended by the First Amendment, in exercise of the extension provision, is hereby amended to further extend the term of the Agreement by one (1) year to December 2, 2024.
2. The December 3, 2019 Agreement, as previously amended by the First Amendment, is hereby amended to further increase the not-to-exceed amount by \$1,000,000 for a total not-to-exceed amount of \$4,000,000.
3. The parties further agree that, with the foregoing exceptions, each and every other term and provision of the December 3, 2019 Agreement, as amended by the First Amendment, shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to the Agreement on the date and year written below.

CITY OF NATIONAL CITY

HDR ENGINEERING, INC.

(Corporation – signatures of two corporate officers required)

By: _____
Ron Morrison, Mayor

Date: _____

APPROVED AS TO FORM:

By: _____
Barry J. Schultz
City Attorney

By: _____
(Name)
(Title) *VICE PRESIDENT*

Date: *11/8/2023*

By: _____
(Name) *Jon Rohrer*
(Title) *Authorized Signatory*

Date: *11/8/2023*

**SECOND AMENDMENT TO THE AGREEMENT BY
AND BETWEEN
THE CITY OF NATIONAL CITY AND
KIMLEY-HORN AND ASSOCIATES, INC.**

THIS SECOND AMENDMENT TO THE AGREEMENT is entered into by and between the CITY OF NATIONAL CITY, a municipal corporation (“CITY”), and KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina corporation (the “CONSULTANT”).

RECITALS

WHEREAS, the City Council adopted Resolution No. 2020-11 approving an Agreement (“the Agreement”) with the CONSULTANT for the term of January 21, 2020 through January 20, 2023, 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; traffic civil engineering; traffic engineering; transportation planning; plan reviews; constructability reviews; long range planning on multiple disciplines; grants management; community outreach and communications, for a not-to-exceed amount of \$2,000,000, and an initial term of three (3) years, with the option to extend this term for up to two (2) one-year extensions; and,

WHEREAS, the City Council adopted Resolution No. 2022-172 approving the First Amendment to the Agreement, increasing the \$2,000,000 not-to-exceed amount by \$1,000,000 for a total not-to-exceed amount of \$3,000,000, and exercising the first of two (2) extensions extending the Agreement by one (1) year to January 20, 2024; 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 the CITY’s CIP, and the CONSULTANT is willing to perform such services; and

WHEREAS, the parties desire to amend the Agreement by exercising the second of the two (2) one-year extensions to extend the term of the Agreement to January 20, 2025, and to increase the not-to-exceed amount by \$1,000,000 for a not-to-exceed amount of \$4,000,000.

AGREEMENT

NOW, THEREFORE, the parties hereto agree that:

1. The January 21, 2020 Agreement, as previously amended by the First Amendment, in exercise of the extension provision, is hereby amended to further extend the term of the Agreement by one (1) year to January 20, 2025.
2. The January 21, 2020 Agreement, as previously amended by the First Amendment, is hereby amended to further increase the not-to-exceed amount by \$1,000,000 for a total not-to-exceed amount of \$4,000,000.
3. The parties further agree that, with the foregoing exceptions, each and every other term and provision of the January 21, 2020 Agreement, as amended by the First Amendment, shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to the Agreement on the date and year written below.

CITY OF NATIONAL CITY

By: _____
Ron Morrison, Mayor

Date: _____

APPROVED AS TO FORM:

By: _____
Barry J. Schultz
City Attorney

KIMLEY-HORN AND ASSOCIATES, INC.

(Corporation – signatures of two corporate officers required)

By: _____
Sam McWhorter, PE
Vice President

Date: 11/6/23

By: _____
Megan Ulery, PE, LEED AP
Associate

Date: 11/6/2023

**SECOND AMENDMENT TO THE AGREEMENT BY
AND BETWEEN
THE CITY OF NATIONAL CITY AND
KTU&A**

THIS SECOND AMENDMENT TO THE AGREEMENT is entered into by and between the CITY OF NATIONAL CITY, a municipal corporation ("CITY"), and KTU&A, a California corporation (the "CONSULTANT").

RECITALS

WHEREAS, the City Council adopted Resolution No. 2019-176 approving an Agreement ("the Agreement") with the CONSULTANT for the term of December 3, 2019 through December 2, 2022, 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; landscape architecture and urban design; transportation planning; geographic information systems; long range planning for multiple disciplines; grants management; community outreach and communications, for a not-to-exceed amount of \$2,000,000, and an initial term of three (3) years, with the option to extend this term for up to two (2) one-year extensions; and,

WHEREAS, the City Council adopted Resolution No. 2022-172 approving the First Amendment to the Agreement, increasing the \$2,000,000 not-to-exceed amount by \$1,000,000 for a total not-to-exceed amount of \$3,000,000, and exercising the first of two (2) extensions extending the Agreement by one (1) year to December 2, 2023; 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 the CITY's CIP, and the CONSULTANT is willing to perform such services; and

WHEREAS, the parties desire to amend the Agreement by exercising the second of the two (2) one-year extensions to extend the term of the Agreement to December 2, 2024, and to increase the not-to-exceed amount by \$1,000,000 for a not-to-exceed amount of \$4,000,000.

AGREEMENT

NOW, THEREFORE, the parties hereto agree that:

1. The December 3, 2019 Agreement, as previously amended by the First Amendment, in exercise of the extension provision, is hereby amended to further extend the term of the Agreement by one (1) year to December 2, 2024.
2. The December 3, 2019 Agreement, as previously amended by the First Amendment, is hereby amended to further increase the not-to-exceed amount by \$1,000,000 for a total not-to-exceed amount of \$4,000,000.
3. The parties further agree that, with the foregoing exceptions, each and every other term and provision of the December 3, 2019 Agreement, as amended by the First Amendment, shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to the Agreement on the date and year written below.

CITY OF NATIONAL CITY

By: _____
Ron Morrison, Mayor

Date: _____

APPROVED AS TO FORM:

By: _____
Barry J. Schultz
City Attorney

KTU&A

(Corporation – signatures of two corporate officers required)

By: _____
(Name) MARK L. CARPENTER
(Title) Principal, Treasurer
Date: 11/8/23

By: _____
(Name) JOE PUNSALAN
(Title) PRINCIPAL, SECRETARY
Date: 11/8/23

**SECOND AMENDMENT TO THE AGREEMENT BY
AND BETWEEN
THE CITY OF NATIONAL CITY AND
NV5, INC.**

THIS SECOND AMENDMENT TO THE AGREEMENT is entered into by and between the CITY OF NATIONAL CITY, a municipal corporation ("CITY"), and NV5, INC., a California corporation (the "CONSULTANT").

RECITALS

WHEREAS, the City Council adopted Resolution No. 2019-177 approving an Agreement ("the Agreement") with the CONSULTANT for the term of December 3, 2019 through December 2, 2022, 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, inspections and certified payroll; plan reviews; constructability reviews; land surveying; environmental assessments; geotechnical; construction support; community outreach and communications, for a not-to-exceed amount of \$2,000,000, and an initial term of three (3) years, with the option to extend this term for up to two (2) one-year extensions; and,

WHEREAS, the City Council adopted Resolution No. 2022-172 approving the First Amendment to the Agreement, increasing the \$2,000,000 not-to-exceed amount by \$1,000,000 for a total not-to-exceed amount of \$ \$3,000,000, and exercising the first of two (2) extensions extending the Agreement by one (1) year to December 2, 2023; 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 the CITY's CIP, and the CONSULTANT is willing to perform such services; and

WHEREAS, the parties desire to amend the Agreement by exercising the second of the two (2) one-year extensions to extend the term of the Agreement to December 2, 2024, and to increase the not-to-exceed amount by \$1,000,000 for a not-to-exceed amount of \$4,000,000.

AGREEMENT

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1. The December 3, 2019 Agreement, as previously amended by the First Amendment, in exercise of the extension provision, is hereby amended to further extend the term of the Agreement by one (1) year to December 2, 2024.
2. The December 3, 2019 Agreement, as previously amended by the First Amendment, is hereby amended to further increase the not-to-exceed amount by \$1,000,000 for a total not-to-exceed amount of \$4,000,000.
3. The parties further agree that, with the foregoing exceptions, each and every other term and provision of the December 3, 2019 Agreement, as amended by the First Amendment, shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to the Agreement on the date and year written below.

CITY OF NATIONAL CITY

By: _____
Ron Morrison, Mayor

Date: _____

APPROVED AS TO FORM:

By: _____
Barry J. Schultz
City Attorney

NV5, INC.

(Corporation – signatures of two corporate officers required)

By: _____
(Name) Jeffrey M. Cooper, P.E.
(Title) Senior Vice President

Date: 4/7/2023

By: _____
(Name) MARY JO O'BRIEN
(Title) SECRETARY

Date: 11/7/23

**SECOND AMENDMENT TO THE AGREEMENT BY
AND BETWEEN
THE CITY OF NATIONAL CITY AND
WSP USA INC.**

THIS SECOND AMENDMENT TO THE AGREEMENT is entered into by and between the CITY OF NATIONAL CITY, a municipal corporation ("CITY"), and WSP USA INC., a New York corporation (the "CONSULTANT").

RECITALS

WHEREAS, the City Council adopted Resolution No. 2019-178 approving an Agreement ("the Agreement") with the CONSULTANT for the term of December 3, 2019 through December 2, 2022, 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; traffic engineering; transportation planning; plan reviews; constructability reviews; long range planning on multiple disciplines; grants management; community outreach and communications, for a not-to-exceed amount of \$2,000,000, and an initial term of three (3) years, with the option to extend this term for up to two (2) one-year extensions; and,

WHEREAS, the City Council adopted Resolution No. 2022-172 approving the First Amendment to the Agreement, increasing the \$2,000,000 not-to-exceed amount by \$1,000,000 for a total not-to-exceed amount of \$3,000,000, and exercising the first of two (2) extensions extending the Agreement by one (1) year to December 2, 2023; 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 the CITY's CIP, and the CONSULTANT is willing to perform such services; and

WHEREAS, the parties desire to amend the Agreement by exercising the second of the two (2) one-year extensions to extend the term of the Agreement to December 2, 2024, and to increase the not-to-exceed amount by \$1,000,000 for a not-to-exceed amount of \$4,000,000.

AGREEMENT

NOW, THEREFORE, the parties hereto agree that:

1. The December 3, 2019 Agreement, as previously amended by the First Amendment, in exercise of the extension provision, is hereby amended to further extend the term of the Agreement by one (1) year to December 2, 2024.
2. The December 3, 2019 Agreement, as previously amended by the First Amendment, is hereby amended to further increase the not-to-exceed amount by \$1,000,000 for a total not-to-exceed amount of \$4,000,000.
3. The parties further agree that, with the foregoing exceptions, each and every other term and provision of the December 3, 2019 Agreement, as amended by the First Amendment, shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to the Agreement on the date and year written below.

CITY OF NATIONAL CITY

By: _____
Ron Morrison, Mayor

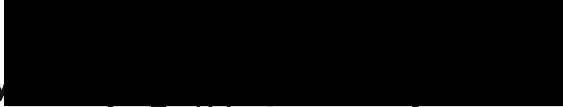
Date: _____

APPROVED AS TO FORM:

By: _____
Barry J. Schultz
City Attorney

WSP USA INC.

(Corporation – signatures of two corporate officers required)

By: 

(Name) Patti Backamp
(Title) Senior Director, Local Business Leader

Date: 11/9/2023

By: 

(Name) Tara Lake
(Title) Sr. Vice President

Date: 11/9/2023

EXHIBIT B

1. HDR Engineering, Inc.

CIP/TASK #	DESCRIPTION
18-11	Paradise Creek Water Quality and Community Enhancements at Plaza
19-11	Paradise Creek at Plaza Phase II
19-35	Paradise Creek Kimball Additional Permit Support
20-01	NC EX-P1 Sewer Line Upsizing
22-36	EX-P1 Sewer Line Upsizing Design Services Modification
22-48	CCTV Inspection and Cleaning Services for 10"VCP at Wilson Ave
22-55	Wastewater Master Plan Update – Future Flow Projections

2. Kimley-Horn and Associates, Inc.

CIP/TASK #	DESCRIPTION
18-05	Traffic Counts & Analysis
18-14	Sweetwater/30th Bike
19-02	El Toyon Las Palmas
19-04	Safe Routes to School
19-18	NC Blvd Inter-City Bike Connection Amendment 2
19-19	Roosevelt PSE Smart Growth
19-23	Central Community Mobility
19-25	CNC Bike Wayfinding
19-33	Paradise Creek Park Extension
19-44	8th Street & Roosevelt Ave ATP
19-83	Division Street DSDC
19-84	East Paradise Grants
19-85	Civic Center Access Improve
19-86	Euclid Ave Bike/Ped DSDC
19-87	Euclid Ave. Construction Support
21-03	ATP Cycle 5 Grants
21-13	Traffic Counts & Analysis
21-28	Ocean Protection Council – Coastal Justice Grant
21-80	Urban Greening Program Round 4
22-82	Project Support Services
22-09	Eastside I-805 Community Greenbelt Project
22-34	Caltrans Holiday Lights Permit
22-41	Manchester Street Striping
22-56	Paradise Creek Wetland Expansion Project (Initial Studies)
23-98	Active Transportation Program Count Data

3. KTU&A

CIP/TASK #	DESCRIPTION
19-19	Roosevelt Ave. Smart Growth
19-44	8th St and Roosevelt Ave Caltrans ATP
19-88	Clean Mobility TUNES Capital Project
21-81	CMO Pre-Planning
22-09	Clean CA Program Grant
22-38	Strategic Growth Council Transformative Planning Grant
22-53	OLDCC Installation Resiliency Grant
22-54	CMO Authorization and CMO Construction Docs
22-80	NC Transformative Grant
23-97	Grant Writing Support

4. NV5, Inc.

CIP/TASK #	DESCRIPTION
18-07	Paradise Creek Park
18-08	Paradise Creek LOMR
19-46	Las Palmas pool Electric System Replacement
20-81	Sewer Rate Assessment
20-82	Implementation of Dashboard GIS Work
21-15	MLK Community Center Remodel
21-17	SOW CIP Online GIS
21-23	Plan Check Services
21-82	NC GIS Webserver
21-83	2021 Sewer User Survey & Prep of Tax Roll
22-12	FY23 2023 Sewer Tax Roll
22-24	Military installation Sustainability Planning Grant
22-81	2022 Sewer Tax Roll
24-98	Prep As-built Drawings for MLK Community Center Improvements

5. WSP USA Inc.

CIP/TASK #	DESCRIPTION
21-90	Bike Master Plan
21-91	Parking Master Plan
21-10	Parking Policy & Regulatory Criteria
22-59	Bicycle Master Plan Update

RESOLUTION NO. 2023 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE SECOND AMENDMENTS TO THE AGREEMENTS BY ONE YEAR AND INCREASE THE NOT-TO-EXCEED AMOUNTS BY \$1,000,000 EACH FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$4,000,000 EACH.” WITH THE FOLLOWING ON-CALL CONSULTANTS: A) HDR ENGINEERING, INC.; B) KIMLEY-HORN AND ASSOCIATES, INC.; C) KTU&A; D) NV5, INC.; AND E) WSP USA INC.

WHEREAS, the Engineering & Public Works Department advertised a Request for Qualifications (RFQ) for various engineering, architectural and construction support services, housing and real estate development services, and environmental compliance services on May 1, 2019; and

WHEREAS, based on the strength of their Statements of Qualifications, interviews and past performance, the City of National City entered into agreements with several consultants to provide on-call support services for National City’s Capital Improvement Program (CIP); and

WHEREAS, the original agreements were each for a not-to-exceed amount of \$2,000,000 and a term of three years, with the option for two one-year extensions; and

WHEREAS, based on the consultants’ performances and quality of work, expiring agreements, increased staffing demands, and to ensure timely completion of CIPs, the City and the below listed consultants desire to execute:

Second Amendments to extend agreements by one year and increase the not-to-exceed amounts of the agreements by \$1,000,000 each, including rate updates, for a total not-to-exceed amount of \$4,000,000 each:

- 1. HDR Engineering, Inc.:** Project management; civil engineering; plan reviews; constructability reviews; construction support; long range planning for multiple disciplines; grants management; community outreach and communications

Original Agreement Reso No. 2019-175 on December 3, 2019
First Amendment Reso No. 2022-172 on November 1, 2022

- 2. Kimley-Horn and Associates, Inc.:** Project management; civil engineering; traffic engineering; transportation planning; plan reviews; constructability reviews; long-range planning on multiple disciplines; grants management; community outreach and communications

Original Agreement Reso. No. 2020-11 on January 21, 2020
First Amendment Reso. No. 2022-172 on November 1, 2022

- 3. KTU&A:** Project management; landscape architecture and urban design; transportation planning; geographic information systems; long-range planning for multiple disciplines; grants management; community outreach and communications

Original Agreement Reso. No. 2019-176 on December 3, 2019
First Amendment Reso. No. 2022-172 on November 1, 2022

4. **NV5, Inc.:** Project management; engineering; construction management, inspections and certified payroll; plan reviews; constructability review; land surveying; environmental assessments; geotechnical; construction support; community outreach and communications

Original Agreement Reso. No. 2019-177 on December 3, 2019
First Amendment Reso. No. 2022-172 on November 1, 2022

4. **WSP USA Inc.:** Project management; traffic engineering; transportation planning; plan reviews; constructability reviews; long-range planning on multiple disciplines; grants management; community outreach and communications

Original Agreement Reso. No. 2019-178 on November 19, 2019
First Amendment Reso. No. 2022-172 on November 1, 2022

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

Section 1: That the City Council hereby authorizes the Mayor to execute Second Amendments to extend Agreements by one year and increase the not-to-exceed amounts by \$1,000,000 each, for total not-to-exceed amount of \$4,000,000 each with the following on-call consultants: a) HDR Engineering, Inc.; b) Kimley-Horn and Associates, Inc.; c) KTU&A; d) NV5, Inc.; and e) WSP USA Inc.

Section 2: That 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 21st day of November, 2023.

Ron Morrison, Mayor

ATTEST:

Shelley Chapel, MMC, City Clerk

APPROVED AS TO FORM:

Barry J. Schultz, City Attorney



AGENDA REPORT

Department: Community Development - Neighborhood Services
Prepared by: Dionisia Trejo, Administrative Secretary
Meeting Date: Tuesday, November 21, 2023
Approved by: Ben Martinez, City Manager

SUBJECT:

Temporary Use Permit – Kimball Park Winter Carnival hosted by Paul Maurer Shows at Kimball Park from Thursday, February 29, 2024 through Sunday, March 3, 2024 with No Waiver of Fees.

RECOMMENDATION:

Approve the Application for a Temporary Use Permit Subject to Compliance with all Conditions of Approval with No Waiver of Fees and in Accordance with City Council Policy No. 802.

BOARD/COMMISSION/COMMITTEE PRIOR ACTION:

Not Applicable.

EXPLANATION:

This is a request from the Paul Maurer Shows to conduct the Kimball Park Winter Carnival at Kimball Park from Thursday, February 29, 2024, through Sunday, March 3, 2024. Set up for this event will commence at 7:00 a.m. February 26, 2024. Daily hours will be from 2:00 p.m. to 11:00 p.m.

The carnival will include carnival rides, games and food booths. Applicant will provide private security for the event.

NOTE: This is the first time this organization has requested a Temporary Use Permit.

FINANCIAL STATEMENT:

City Fee of \$312.00 for processing the TUP through various City departments, plus \$1,031.00 for the Fire Permit and \$200.94 for Public Works.

Total fees: \$1,543.94

RELATED CITY COUNCIL 2020-2025 STRATEGIC PLAN GOAL:

Not Applicable

ENVIRONMENTAL REVIEW:

This is not a project under CEQA and is therefore not subject to environmental review.CCR15378; PRC 21065.

PUBLIC NOTIFICATION:

Agenda Report posted within 72 hours of meeting date and time in accordance with Brown Act.

ORDINANCE:

Not Applicable

EXHIBITS:

Exhibit A – TUP Kimball Park Winter Carnival

Exhibit B – Conditions of Approval Kimball Park Winter Carnival



City of National City ■ Neighborhood Services Department
1243 National City Boulevard ■ National City, CA 91950
(619) 336-4364 ■ fax (619) 336-4217
www.nationalcityca.gov

Special Event Application

Type of Event

- Fair/Festival Parade/March Walk or Run Concert/Performance
- TUP Sporting Event Other (specify) Family Carnival

Event Name & Location

Event Title Kimball Park Winter Carnival

Event Location (list all sites being requested) Kimball Park, 148 E. 12th Street, National City, CA 91950

Event Times

Set-Up Starts
Date 02/26-28/2024 Time 0700-2300 Day of Week Mon-Wed

Event Starts
Date 02/29/2024 Time 1400 - 2300 Day of Week Thur

Event Ends
Date 03/03/2024 Time 1400 - 2300 Day of Week Sun

Breakdown Ends
Date 03/04/2024 Time 2300 Day of Week Mon

RECEIVED
SEP 26 REC'D
Neighborhood Services Department
City of National City

Applicant Information

Applicant (Your name) Don Maurer Sponsoring Organization Paul Maurer Shows

Event Coordinator (if different from applicant) Same

Mailing Address 302 Washington St. #1219, San Diego, CA 92103

Day Phone (619) 823-5204 After Hours Phone Same Cell Same Fax _____

Public Information Phone Same E-mail don.paulmaurershows@yahoo.c

Applicant agrees to investigate, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges, expense (including attorney's fees) and causes of action of any character which the City, its officers, employees and agents may incur, sustain or be subjected to on account of loss or damage to property or the loss of use thereof and for bodily injury to or death of any persons (including but not limited to the employees, subcontractors, agents and invitees of each party hereto) arising out of or in any way connected to the occupancy, enjoyment and use of any City premises under this agreement to the extent permitted by law.

Applicant understands this TUP/special event may implicate fees for City services, which will have to be paid in the City's Finance Department 48 hours prior to the event set-up. The undersigned also understands and accepts the City's refund policy for application processing and facility use and that fees and charges are adjusted annually and are subject to change.

Signature of Applicant: [Signature] Date 09/22/2023

Special Event Application (continued)

Please complete the following sections with as much detail as possible since fees and requirements are based on the information you provide us.

Fees/Proceeds/Reporting

Is your organization a "Tax Exempt, nonprofit" organization? Yes No

Are admission, entry, vendor or participant fees required? Yes No

If YES, please explain the purpose and provide amount (s):

We propose a \$2 entrance fee (under 12 yrs free) This fee will help pay for the fencing, portable restrooms, hand sinks and dumpsters costs.

\$ Estimated Gross Receipts including ticket, product and sponsorship sales from this event.

\$ 55,000 Estimated Expenses for this event.

\$ N/A What is the projected amount of revenue that the Nonprofit Organization will receive as a result of this event?

Description of Event

First time event Returning Event include site map with application

Note that this description may be published in our City Public Special Events Calendar:

We propose to have a family carnival with 14-16 amusement rides, 7 game booths and (1) food Conc.

The proposed hours of opening would be Thur 1400 -2300, Fri 1400 - 2300, Sat 1400 - 2300 & Sun

1400 - 2300. Hours can be adjusted as needed for special event approval. We will provide (3) roving

unarmed security guards during the event hours. We will also make sure there is adequate emergency

fire exits with posted signs (4'X4') with reflective print at the emergency exits as indicated on the plan.

Estimated Attendance

Anticipated # of Participants: Show employees only Anticipated # of Spectators: 3000 + Est.

Traffic Control, Security, First Aid and Accessibility

Requesting to close street(s) to vehicular traffic? Yes No

List any streets requiring closure as a result of the event (provide map): _____

Date and time of street closure: _____ Date and time of street reopening: _____

Other (explain) _____

Requesting to post "no parking" notices? Yes No

Requested "No Parking" on city streets and/or parking lots (list streets/parking lots) (provide map):

Other (explain) _____

Security and Crowd Control

Depending on the number of participants, your event may require Police services.

Please describe your procedures for both Crowd Control and Internal Security: We will oversee the
that carnival area with show management and using our (3) unarmed security offices. They are rovers
as well to watch the crowd. The carnival area will be fenced in to also help with crowd control levels.

Have you hired Professional Security to handle security arrangements for this event?

Yes No If YES, name and address of Security Organization Pending approval of the

application, we will use: One Shield Services, 825 Collage Blvd. Ste. 102-328, Oceanside, CA

Security Director (Name): Matt Rash (Owner) Phone: (760) 421-9829

If using the services of a professional security firm and the event will occur on City property, please provide a copy of its insurance certificate, evidencing liability with limits of at least \$1 Million dollars per occurrence/\$2 Million dollars aggregate, as well as and additional insured endorsement naming the City of National City, its officers, employees, and agents as additional insureds. Evidence of insurance must be provided by the vendor or its insurer to the Neighborhood Services Department at the time of submission.

Is this a night event? Yes No If YES, please state how the event and surrounding area will be illuminated to ensure safety of the participants and spectators: _____

We have generator spot lights and all ride lights that will keep the entire carnival are lit at night. If light towers are needed, we will rent them to help areas of concern,

First Aid

Depending on the number of participants, your event may require specific First Aid services. First aid station to be staffed by event staff? Yes No First aid/CPR certified? Yes No

First aid station to be staffed by professional company. ▶ Company _____

If using the services of a professional medical organization/company and the event will occur on City property, please provide a copy of its insurance certificate, evidencing liability with limits of at least \$1 Million dollars per occurrence/\$2 Million dollars aggregate, as well as and additional insured endorsement naming the City of National City, its officers, employees, and agents as additional insureds. Evidence of insurance must be provided by the vendor or its insurer to the Neighborhood Services Department at the time of submission.

Accessibility

Please describe your Accessibility Plan for access at your event by individuals with disabilities:

We have a disability forms that would need to be filled out for disabled guests for rides in the carnival.

Accessibility would be same as for other guests. Wheelchairs should be able to roll on the grass area as during your 4th of July carnival. We will do whatever is needed to help our disabled guests to feel welcome and assisted in anyway.

Elements of your Event

Setting up a stage? Yes No

Requesting City's PA system

Requesting City Stage; if yes, which size? Dimensions (13x28) Dimensions (20x28)

Applicant providing own stage ▶ _____ (Dimensions)

Setting up canopies or tents?

_____ # of canopies size _____

(7) Fire OK # of tents size 10x20 ft - Fire Marshal approved

No canopies/tents being set up

Setting up tables and chairs?

Furnished by Applicant or Contractor

_____ # of tables No tables being set up

_____ # of chairs No chairs being set up

(For City Use Only) Sponsored Events – Does not apply to co-sponsored events

_____ # of tables No tables being set up

_____ # of chairs No chairs being set up

Contractor Name _____

Contractor Contact Information _____
Address City/State Phone Number

Setting up other equipment?

Sporting Equipment (explain) _____

Other (explain) Carnival rides, game & food concessions _____

Not setting up any equipment listed above at event

Having amplified sound and/or music? Yes No

PA System for announcements CD player or DJ music

Live Music ▶ Small 4-5 piece live band ▶ Large 6+ piece live band

Other (explain) Small boombox to be used on the carousel. _____

If using live music or a DJ. ▶ Contractor Name _____

▶ _____
Address City/State Phone Number

Using lighting equipment at your event? Yes No

Bringing in own lighting equipment

Using professional lighting company ▶ Company Name _____

Address _____ City/State _____ Phone Number _____

Using electrical power? Yes No

Using Kimball Park Bowl Lighting (from _____ to _____)

Using on-site electricity

For sound and/or lighting

For food and/or refrigeration

Bringing in generator(s)

For sound and/or lighting

For food and/or refrigeration

Vendor Information

PLEASE NOTE: You may be required to apply for a temporary health permit if food or beverages are sold or given away during your special event. Also see 'Permits and Compliance' on page 8 in the Special Event Guide. For additional information on obtaining a temporary health permit, please contact the County of San Diego Environmental Health at (619) 338-2363.

Having food and non-alcoholic beverages at your event? Yes No

Vendors preparing food on-site ▶ # only 1 ▶ Business License # Pending approval

If yes, please describe how food will be served and/or prepared: This will be a traditional type carnival/fair food wagon serving cotton candy, popcorn, etc... Same as you see at the any fair.

If you intend to cook food in the event area please specify the method:

GAS ELECTRIC CHARCOAL OTHER (Specify): _____

Vendors bringing pre-packaged food ▶ # only 1 ▶ Business License # Pending

Vendors bringing bottled, non-alcoholic beverages (i.e., bottled water, can soda, etc.) ▶ # only 1

Vendors selling food # only 1 ▶ Business License #(s) Pending Approval

Vendors selling merchandise # _____ ▶ Business License #(s) _____

Food/beverages to be handled by organization; no outside vendors

Vendors selling services # _____ ▶ Business License #(s) _____

▶ Explain services _____

Vendors passing out information only (no business license needed) # _____

▶ Explain type(s) of information _____

No selling or informational vendors at event

The carnival will be the only food vendor

Having children activities? Yes No

PLEASE NOTE: In the event inflatable jumps are provided at the event, The City of National City requires commercial liability insurance with limits of at least \$1 Million dollars per occurrence/\$2 Million dollars aggregate. In addition, the City of National City must be named as an Additional Insured pursuant to a separate endorsement, which shall be provided by the vendor or its insurer to the City's Risk Manager, along with the Certificate of Insurance, for approval prior to the event. The application should be filed out at least one week prior to the event. For questions or to obtain a copy of the "Facility Use Application", please contact the Engineering/Public Works Department at (619) 336-4580.

Inflatable bouncer house # _____ Rock climbing wall Height _____

Inflatable bouncer slide # _____ Arts & crafts (i.e., craft making, face painting, etc.)

Carnival Rides _____ Other _____

Having fireworks or aerial display? Yes No

Vendor name and license # _____

Dimensions _____ Duration _____

Number of shells _____ Max. size _____

PLEASE NOTE: In the event fireworks or another aerial display is planned for your event, The City of National City requires commercial liability insurance with limits of at least \$2 Million dollars per occurrence/ \$4 Million dollars aggregate. In addition, the City of National City must be named as an Additional Insured pursuant to a separate endorsement, which shall be provided by the vendor or its insurer to the City's Risk Manager, along with the Certificate of Insurance, for approval prior to the event. Depending on the size and/or nature of the fireworks display, the City reserves the right to request higher liability limits. The vendor must also obtain a fireworks permit from the National City Fire Department and the cost is \$602.00

Arranging for media coverage? Yes No

Yes, but media will not require special set-up

Yes, media will require special set-up. Describe _____

Event Signage

PLEASE NOTE: For City sponsored or co-sponsored events, banners publicizing the event may be placed on the existing poles on the 1800 block and 3100 block of National City Boulevard. The banners must be made to the City's specifications. Please refer to the City's Special Event Guidebook and Fee Schedule for additional information.

Are you planning to have signage at your event? Yes No

Yes, we will post signage # 3 Dimensions 4'X8' Colored advertising banners

Yes, having inflatable signage # _____ ▶ (complete Inflatable Signage Request form)

Yes, we will have banners # 3

What will signs/banners say? Event name, dates, location, prices

How will signs/banners be anchored or mounted? We would plan to tie by rope in the park area

Location of banners/signage In front of Kimball Park and side streets

Waste Management

PLEASE NOTE: One toilet for every 250 people is required, unless the applicant can show that there are sufficient facilities in the immediate area available to the public during the event.

Are you planning to provide portable restrooms at the event? Yes No

If yes, please identify the following:

▶ Total number of portable toilets: 10

▶ Total number of ADA accessible portable toilets: 2

Contracting with portable toilet vendor. ▶ Diamond Event Services, San Marcos, CA

▶ Load-in Day & Time 02/26/2024 (0900) ▶ Load-out Day & Time 02/04/2024 (0900)

Portable toilets to be serviced. ▶ Time 0900 Th, Fr & Sa

Set-up, Breakdown, Clean-up

Setting up the day before the event?

Yes, will set up the day before the event. ▶ # of set-up day(s) 3.5

No, set-up will occur on the event day

Requesting vehicle access onto the turf?

Yes, requesting access onto turf for set-up and breakdown (complete attached Vehicle Access Request form)

No, vehicles will load/unload from nearby street or parking lot.

NPDES-Litter Fence

City to install litter fence

Applicant to install litter fence

N/A

Breaking down set-up the day after the event?

Yes, breakdown will be the day after the event. ▶ # of breakdown day(s) 1.5

No, breakdown will occur on the event day.

How are you handling clean-up?

Using City crews

Using volunteer clean-up crew during and after event.

Using professional cleaning company during and after event.

Miscellaneous

Please list anything important about your event not already asked on this application:

Clean-up of the carnival area will take place daily, during and after the event is complete.

Carnival references available.

**Please make a copy of this application for your records.
We do not provide copies.**



Special Events

Pre-Event Storm Water Compliance Checklist

I. Special Event Information

Name of Special Event: <u>Kimball Park Winter Carnival</u>	
Event Address: <u>148 E. 12th St., National City, CA 91951</u>	Expected # of Attendees: <u>3000+</u>
Event Host/Coordinator: <u>Paul Maurer Shows</u>	Phone Number: <u>(619) 823-5204</u>

II. Storm Water Best Management Practices (BMPs) Review

	YES	NO	N/A
Will enough trash cans provided for the event? Provide number of trash bins: <u>10</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will enough recycling bins provided for the event? Provide number of recycle bins: <u>10</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will all portable toilets have secondary containment trays? (exceptions for ADA compliant portable toilets)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do all storm drains have screens to temporarily protect trash and debris from entering?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Are spill cleanup kits readily available at designated spots?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

not sure?

not sure?

* A Post-Event Storm Water Compliance Checklist will be completed by City Staff.

City of National City

PUBLIC PROPERTY USE HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

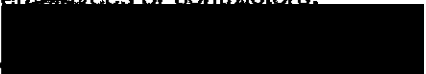
Persons requesting use of City property, facilities or personnel are required to provide a minimum of \$1,000,000 combined single limit insurance for bodily injury and property damage which includes the City, its officials, agents and employees named as additional insured and to sign the Hold Harmless Agreement. Certificate of insurance must be attached to this permit. The insurance company issuing the insurance policy must have a A.M. Best's Guide Rating of A:VII and that the insurance company is a California admitted company; if not, then the insurance policy to the issuance of the permit for the event. The Certificate Holder must reflect:

City of National City
Risk Management Department
1243 National City Boulevard
National City, CA 91950

Organization: Paul Maurer Shows
Person in Charge of Activity: Don Maurer
Address: 302 Washington St. #1219, San Diego, CA 92103
Telephone: (619) 823-5204 Date(s) of Use: 02/26 to 03/04., 2024

HOLD HARMLESS AGREEMENT

As a condition of the issuance of a temporary use permit to conduct its activities on public or private property, the undersigned hereby agree(s) to defend, indemnify and hold harmless the City of National City and the Parking Authority and its officers, employees and agents from and against any and all claims, demands, costs, losses, liability or, for any personal injury, death or property damage, or both, or any litigation and other liability, including attorney's fees and the costs of litigation, arising out of or related to the use of public property or the activity taken under the permit by the permittee or its agents, employees or contractors.

Signature of Applicant: 
Official Title: Agent Date: 9/22/2023

For Office Use Only

Certificate of Insurance Approved _____ Date _____



Google Earth

Imagery date: 11/18/18 - newer

100 m

Camera: 949 m 32°40'17"N 117°06'07"W

4 m



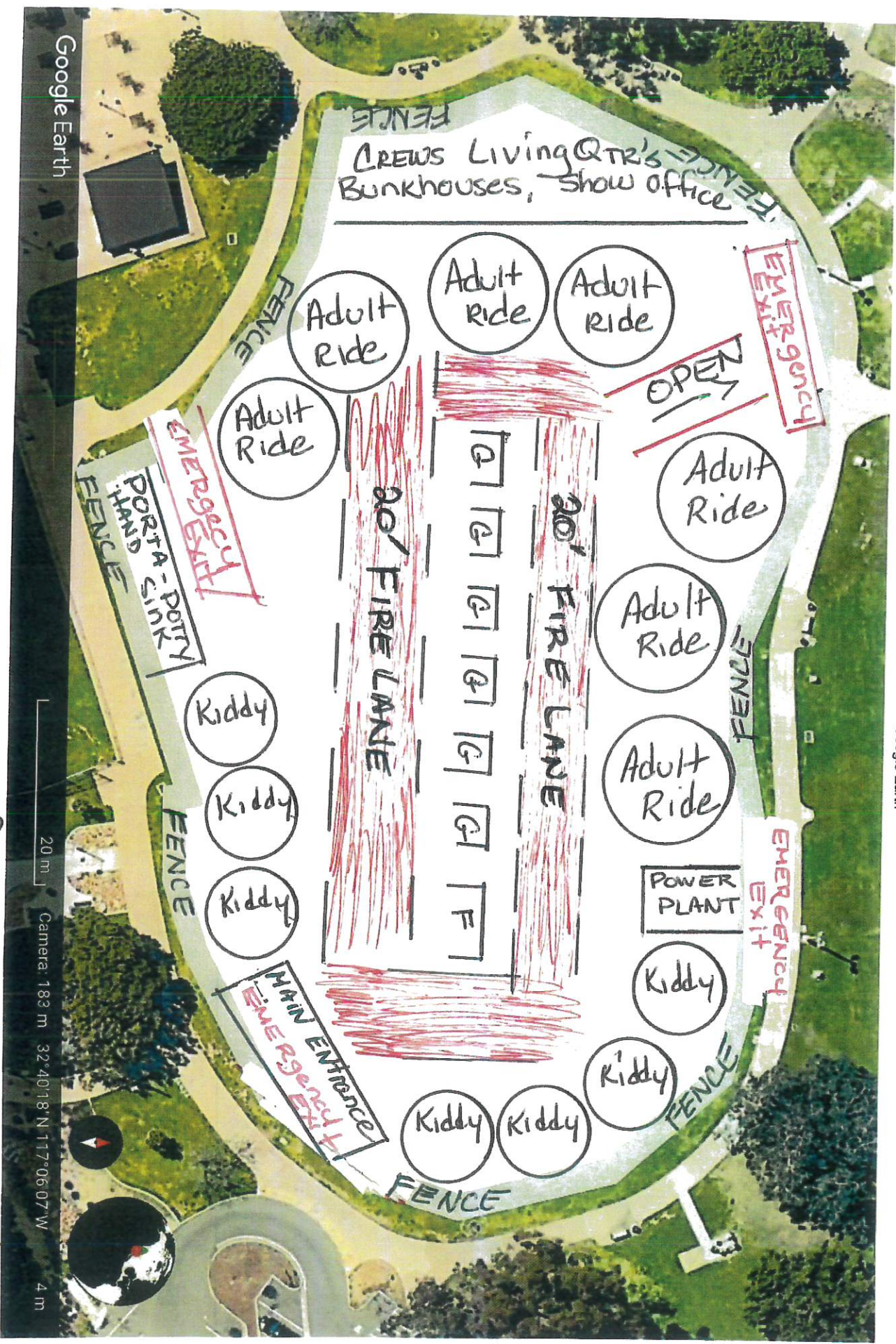
Google Earth

(Carnival Space)

30 m

Camera: 209 m 32°40'18"N 117°06'07"W

2 m



CREWS Living QTR's
Bunkhouses, Show office

EMERGENCY EXIT

OPEN

Adult Ride

Adult Ride

Adult Ride

Adult Ride

Adult Ride

Adult Ride

Adult Ride

POWER PLANT

Kiddy

Kiddy

Kiddy

Kiddy

Kiddy

Kiddy

Kiddy

MAIN ENTRANCE
EMERGENCY EXIT

30' FIRE LANE

30' FIRE LANE

G | G | G | G | G | G | F

EMERGENCY EXIT

PORTA-POTTY
HAND WASH

Google Earth

20 m

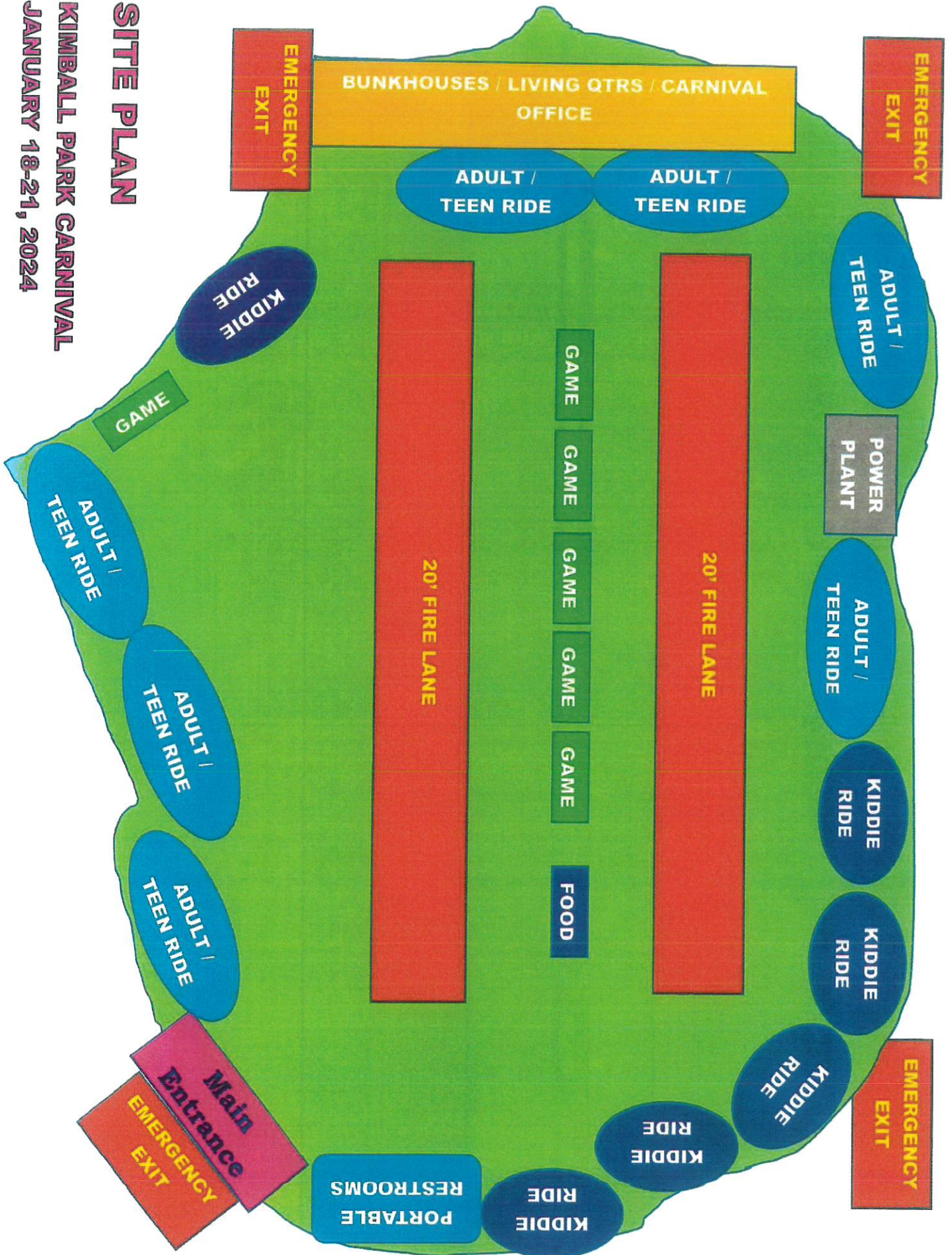
Camera: 183 m 32.4018°N 117.0607°W

4 m

G = GAME
F = FOOD

Proposed Carnival Site Plan
Kimball Park, National City
FEB 18-21, 2024

SITE PLAN
KIMBALL PARK CARNIVAL
JANUARY 18-21, 2024



**City of National City
BUSINESS TAX CERTIFICATE**



2023

TO BE POSTED IN A CONSPICUOUS PLACE
AND
NOT TRANSFERABLE OR ASSIGNABLE

"For Services Provided in National City, California Only"

Business Name PAUL MAURER SHOWS
Business Location 16081 WARREN LN
HUNTINGTON BEACH, CA 92649-2433
Business Owner(s) PAUL MAURER SHOWS

Business Type Amusement - Other
Account Number 09052509
Effective Date June 05, 2023
Expiration Date December 31, 2023

PAUL MAURER SHOWS
302 WASHINGTON ST 1219
SAN DIEGO, CA 92103-2110

City Manager

**NOTE: IT IS YOUR OBLIGATION TO RENEW THIS
CERTIFICATE WHETHER OR NOT YOU RECEIVE A
RENEWAL NOTICE**

For all inquiries regarding this certificate, contact HdL
Business Tax Support Center at (619) 382-2596.

**THIS BUSINESS TAX CERTIFICATE DOES NOT PERMIT A BUSINESS
THAT IS OTHERWISE PROHIBITED.**

PAUL MAURER SHOWS

Thank you for your payment on your National City Business Tax Certificate. **ALL CERTIFICATES MUST BE AVAILABLE FOR INSPECTION UPON REQUEST.** If you have questions concerning your business license, contact the Business Support Center via email at: NationalCity@HdL.gov or by telephone at: (619) 382-2596

Keep this portion for your license separate in case you need a replacement for any lost, stolen, or destroyed license. A fee may be charged for a replacement or duplicate certificate.

This certificate does not entitle the holder to conduct business before complying with all requirements of the National City Municipal code and other applicable laws, nor to conduct business in a zone where conducting such business violates law.

If you have a fixed place of business within the National City, please display the Business Tax Certificate below in a conspicuous place at the premises. Otherwise, every Business Tax Certificate holder not having a fixed place of business in the City shall keep the Business Tax Certificate upon his or her person, or affixed in plain view any car, vehicle, van or other movable structure or device at all times if required by the Collector.

Starting January 1, 2021, Assembly Bill 1607 requires the prevention of gender-based discrimination of business establishments. A full notice is available in English or other languages by going to: <https://www.dca.ca.gov/publications/>



BUSINESS TAX SUPPORT CENTER
8839 N CEDAR AVE #212
FRESNO, CA 93720-1832



**City of National City
BUSINESS TAX CERTIFICATE**

PAUL MAURER SHOWS
302 WASHINGTON ST 1219
SAN DIEGO, CA 92103-2110

Account Number: 09052509
Date of Issue: 06/05/2023

ACORD

Client#: 158

PAULMAUR

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/19/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. IF SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Haas & Wilkerson Insurance
4300 Shawnee Mission Parkway
Fairway, KS 66205
913 432-4400

CONTACT NAME: Kimberlee Aten, CISR
PHONE (A/C, No, Ext): 913 432-4400
FAX (A/C, No):
E-MAIL ADDRESS: kimberlee.aten@hwins.com

INSURED
Paul Maurer dba
Paul Maurer Shows
16081 Warren Ln
Huntington Beach, CA 92649

INSURER(S) AFFORDING COVERAGE
INSURER A: ACE American Insurance Company (CHUBB) NAIC # 22667
INSURER B: Star Insurance Company 18023
INSURER C:
INSURER D:
INSURER E:
INSURER F:

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL SUBR INSR, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liab, and Workers Compensation.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Workers Comp Information

Proprietors/Partners/Executive Officers/Members Excluded:
Paul Maurer, Sole Proprietor

The following are Additional Insured with respect to general liability when required by written (See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

National City Parks & Recreation
148 East 12th St.
National City, CA 91950

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Signature of authorized representative

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DESCRIPTIONS (Continued from Page 1)

contract with regards to the negligence of the Named Insured. Subject to policy terms, conditions, endorsements and exclusions:

National City Parks & Recreation

140 East 12th St. National City, CA 91950 its officials, directors and employees; Kimball Park, 148 East 12th St., National City, CA 91950 its officials, directors and employees; The City of National City, 1243 National City Blvd., National City, CA 91950 its elected officials, representatives, directors, and employees; County of San Diego, 1600 Pacific Hwy, San Diego, CA 92101 its elected officials, representatives, directors and employees

PAUL MAURER SHOWS

Admin & Booking: 302 Washington St. #1219, San Diego, CA 92103
P.O. Box 3211, Huntington Beach, CA 92605
Tel: (619) 823-5204 | Email: don.paulmaurershows@yahoo.com
www.paulmaurershows.com

PROVIDING YOUR COMMUNITY, A SAFE, CLEAN, FUN-FILLED CARNIVAL EXPERIENCE!

CARNIVAL OPERATIONAL PLAN KIMBALL PARK – NATIONAL CITY February 26 – March 4, 2024

General information:

Please find attached the information regarding Paul Maurer Shows. We look forward to working with the National City Parks Department in 2024. I would like to invite you to look over our website at www.paulmaurershows.com. I've also provided you with additional information regarding the planning and timeline. Because we've never worked in National City, we are hopeful that the Parks Department will team up with us as a sponsor for the event as well. Additionally, if we need to move the dates forward or backwards by a few weeks, we can do that as well.

CARNIVAL RIDE OPERATOR INFO:

Admin address:

Don Maurer (Booking & Promotions)
Paul Maurer Shows
302 Washington St #1219
San Diego, CA 92103
Email: don.paulmaurershows@yahoo.com
Carnival contact: Don Maurer – Tel: (619) 823-5204

Owner home address:

Paul Maurer Shows
16081 Warren Ln
Huntington Beach, CA 92649
paulfmaurer@yahoo.com
Owner: Paul Maurer – Tel: (310) 489-4047

***ONSITE CONTACT INFO:**

- **Marque Lundgren, General Manager, Tel: (951) 322-3462
Email: mrpeg422@me.com**
- **Cyndie Duran, Business/Office Manager, Tel: (562) 235-2427
Email: cyndiekaydoran@hotmail.com**

OPERATIONAL DATES & TIMES:

02/26 - Monday:

**ETA - All show equipment will begin to arrive onsite all day.
(7am-10pm)**

02/27 - Tuesday:

**ETA - All show equipment will continue to arrive, placed on locations
for set-up. 7am - 10pm)**

02/28 - Wednesday:

9:00 am - 10:00 pm: Set-up begins for all rides & attractions.

02/29 - Thursday:

**9:00 am - 1:00 pm: finish set-up and prepare for inspections.
4:00 pm - 5:00 pm: ride inspections by Fire & City & Health Dept.
5:00 pm - 11:00 pm: carnival opens to the public.
Thursday night ride special \$2 per ride for everyone.
11:00 pm: Carnival closes**

03/01 - Friday:

**Noon - 3:00 pm: Maintenance, inspect, clean each ride.
5:00 pm - 11:00 pm: carnival opens to the public.**

03/02 - Saturday:

**Noon - 1:00 pm: Maintenance, inspect, clean each ride.
1:00 pm - 11:00 pm: carnival opens to the public.**

03/03 - Sunday:

**Noon - 1:00 pm: Maintenance, inspect, clean each ride.
1:00 pm - 11:00 pm: carnival opens to the public.
11:00 pm - tear-down and clean up carnival location.**

03/04 - Monday:

11:00 pm - show equipment depart location.

NUMBER OF SHOW EMPLOYEES:

45 - 50

ESTIMATE NUMBER OF CUSTOMERS:

For the (4) day event total: 3000+ est.

FOOD CONCESSION:

There will be (1) food "trailer" concession onsite. County of San Diego Health Permit pending approval of SEP. The food concession will serve popcorn, cotton candy, candy & caramel apples, funnel cakes, churros, corn dogs, fountain drinks.

ALCOHOL:

There will be absolutely **NO** alcohol sold or permitted inside the event.

LIVE ENTERTAINMENT:

There will be **NO** live entertainment.

OPENING THURSDAY NIGHT SPECIAL:

\$2 per ride night.

WRISTBAND & TICKET PRICES:

\$40 For (1) Daily unlimited ride wristbands. Available every day.

RIDE COUPON PRICES:

\$20 for a sheet of (24) ride coupons

\$1 for a single ride coupon

***ALL RIDES TAKE BETWEEN 4-7 RIDE COUPONS EACH**

If you have any questions pertaining to our requested Special Event Permit Application, please contact me anytime on my Cellphone (619) 823-5204.

Thank you!


Don Maurer
Paul Maurer Shows
Booking & Promotions
302 Washington St. #1219
San Diego, CA 92103
(619) 823-5204
www.paulmaurershows.com

We thank & support our first responders, troops and veterans!

Department of Industrial Relations
Cal/OSHA

AMUSEMENT RIDE AND TRAMWAY UNIT

1750 Howe Ave., Suite 480
Sacramento, CA 95825
Phone: 916.263.3511
Fax: 916.263.3576



January 25, 2023

Paul Maurer Shows
Attn: Paul Maurer
16081 Warren Ln.
Huntington Beach, CA 92649

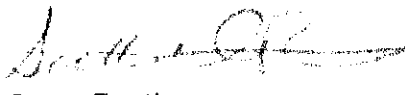
RECEIPT OF APPLICATION

Your application for 2023 California Temporary Amusement Ride Operating Permit(s) was received on Jan. 17, 2023 for the following rides:

Amusement Ride Name	ID #	Amusement Ride Name	ID #
TILT A WHIRL	386	ROCKIN TUG	18137
SWINGER #2	7040	BUMPER CARS/SCOOTERS	18173
GO GATOR	11991	ZENDAR	18399
BERRY-GO-ROUND	17004	DIZZY DRAGON	18441
CAROUSEL	17005	MINDWINDER	18476
GRAVITRON	17178	EAGLE 16	18791
DRAGON WAGON	17293	SUPER TRUCKS	18809
SILVER STREAK	17437	SUPER SHOT	18920
DELUXE SIZZLER	17485	ROCK STAR	19740
CENTURY WHEEL	17629	MERRY GO ROUND	19999
ZIPPER	17748	BALLISTIC SWING RIDE	20037
TORNADO	17872	FREAK OUT	20038
MINI AIRPORT	17918	CYCLES	20039
MINI JET/TAXI CARS	17919	THE DINOS	20040
KITE FLYER	17985	TRUCKS	20041

NOTE: The ride listed below has an expired permit and cannot operate until inspected and a permit issued by the Division. It is your responsibility to contact the Division to schedule inspection of these rides no later than ten days prior to your intended operate.

GIANT WHEEL	18008
-------------	-------


Scott Prather
Senior Engineer
Amusement Ride and Tramway Unit

SP:bm

PAUL MAURER SHOWS

Management & Key Personnel Information

Mr. Paul Maurer (Owner)

After graduating from Castle Park High School in Chula Vista, CA in 1969, Paul began working in the resale-retail business and as a part-time animal hospital care taker in Bonita, CA.

In late 1970 Paul decided that it was time to make a career change and began to work for himself in the Carnival Concession industry with his uncle booking (1) game booth with SJM Fiesta Amusements in California. The following 18-years, Paul built his own game concession company known as "Maurer Concessions". With over (30) + game concessions "Maurer Concessions" was then known as one of the largest game operators on the West Coast. Paul booked his game concessions with many carnival operators at that time including but not limited to: Butler Amusements - Mr. Bud & Butch Butler; Ray Cammack Shows - (RCS) Mr. Ray Cammack & Mr. Guy Levit; Johnston Amusements - Mr. Kenny Johnston; B & B Amusements - Buddy Merten; Carnival Times Shows - (CTS) Mr. Larry Davis; Western Pacific Shows (WPS) Mr. John Lopez; SJM Fiesta Shows - Mr. Steve Merten; & Murphy Bros Shows - Mr. Jerry Murphy.

In 1989, Paul went a step further in his career seeking endeavors investing and purchasing three amusement rides of his own. After booking his rides while managing a ride-unit for Butler Amusements, Paul began to see the potential of owning additional rides of his own. In 1994 Paul continued buying more rides and then formed in 1995 what is now known as Paul Maurer Shows.

Paul's knowledge of the amusement industry is recognized by his peers and within the fair industry throughout the West Coast. Paul oversees the primary Training & Safety for all the shows' Management, Ride Supervisors and is also the Drug & Alcohol Enforcement Officer. Paul is certified by The National Association of Amusement Ride Safety Officials (NAARSO #1).

SAFETY is "top priority" with Paul and his carnival which reflects greatly by the show's safety inspection reports from his Insurance Company (Haas & Wilkerson), The State of California (CAL-OSHA), State of Oregon, Amusement Ride Division & Washington State, Department of Labor & Industries (Amusement Ride Section). Paul has now been in the fair industry for over 51 years. Paul remains onsite during fair hours and is available anytime for questions or concerns.

In 1997 Paul was honored by being voted in as the President of the "Show Folks of America" (San Francisco Club). Paul is married to Secora and has 3 Boys, his Son, Austin (26), Grandson, Nathan (8) & their adopted Son, Greyson (2).

|=====|

Mrs. Secora Maurer (Cori)
Food Concession Owner
16081 Warren Lane, Huntington Beach, CA 92649
Cellphone: (714) 351-2333

Secora (Cori) is Paul's Wife and a "stay at home" Mom raising their kids. Cori also oversees the shows food operation and is an approved Certified Food Handler

|=====|

Mr. Donald Maurer (Don)
Booking, RFP's, Proposals & Promotions
302 Washington St. Ste. 1219, San Diego, CA 92013
Cellphone: (619) 823-5204

After graduating from Granite Hills High School in El Cajon, CA in 1975, Don began working for Paul (his brother) full-time through 1981. In 1981 Don enlisted in the U.S. Navy. He served throughout the Western Pacific including Japan, Thailand, Korea & Philippines as a Religious Program Specialist (RP) Chaplain's Assistant until 1991. Receiving an Honorable Discharge from his military service and earned the Navy Commendation Medal serving in "Operation Desert Storm". After his military service, Don decided to return working for his brother, Paul as the "Office" Administrator - Manager, DOT inspection leader and show training officer. In 2002 he moved out of the office position and took over the booking & promotions for the show. Don is the main contact person for most all events and fairs, providing proposals and responding to RFP's. In total, Don has worked over 35+ years in the fair industry with his brother.

|=====|

Mr. Anbinh Pham (Ben), MBA
Financial Advisor, Booking & Promotions Agent
302 Washington St. Ste. 1219, San Diego, CA 92013
Cellphone: (619) 823-4941/5204

Mr. Pham (Ben) is originally from Nha Trang, Vietnam where he grew up and attended his primary schooling. After graduating from High School in 1996, Ben attended the University of Saigon in Ho Chi Minh City, Vietnam through 2000. Upon finishing and graduating from the University of Saigon, he received superior honors which provided him his fully funded University Scholarship to Graduate School at the International School of Management in San Diego, CA. After graduating as Valedictorian with his MBA in 2002, he was hired full-time as the shows Financial Adviser, Administrator and is the SO-CAL booking & promotions Agent. (Ben) became an American Citizen in 2006. His duties consist of payable/receivables and oversees the shows operational matters. Mr. Pham has worked for Paul Maurer Shows for 20+ years.

|=====|

Mr. Marque Lundgren
Shows' General Manager & Ride Superintendent
25060 Hancock Ave. 103-307, Murrieta, CA 92562
Cellphone: (951) 322-3462

Marque graduated from Banning High School in 1983, Banning, CA. After numerous different Law Enforcement and Military training programs from 1983-1997, he began working in the Entertainment & film field beginning in 1997.

In 2000, Marque joined Paul Maurer Shows beginning in the maintenance department overseeing all maintenance and operations of all rides. Because of Marques professional ability, in 2004 he was promoted into the General Manager position which includes being responsible for and implementing the ride training program, maintenance, injury prevention program and comprehensive corrosion analysis program approve by the State of California (DOSH) ride inspection division. Marque is one of the main "onsite" contacts for customer complaints & incident recorder. He's qualified and has completed training with local, state building inspectors, electrical, public safety and is CPR certified. He meets with all event coordinators including our fair management & board members, fire marshals and ride inspectors that inspect the shows operational & safety policies. His skills also include but are not limited to personal management, maintenance planning & implementation, welding, electrical and hydraulic power conversion. Marque has worked for Paul Maurer Shows for 23 years.

Marque Lundgren is your onsite contact for any and all customer service issues, complaints including incident recorder, ticket refunds.

|=====|

Mrs. Cyndie Doran
Onsite Administrator & Office Manager
17154 Palomas Drive, Perris, CA 92570
Cellphone: (562) 235-2427 (24 Hrs.)

Cyndie graduated from Downey High School, Downey, CA. After graduating from High School, she was certified as a Certified Nurse Assistant (CNA) attending Cerritos Community College, graduating with an associate degree in Sociology in 1998. She was employed as the General Manager for (Mrs. Freeda King) a land management company in Long Beach, CA through 2006.

In 2006, Cyndie began working for Paul Maurer Shows starting as a food handler, ticket sales & ride operator. In 2011, she was promoted to the Assistant Office Manager and now has the position of office general manager.

Cyndie's' duties and responsibilities include but not limited to handling California Department of Transportation (DOT) inspections; International Registration Program (IRP); International Fuel Tag Administrator (IFTA); vehicle registrations & special permitting; Department of Safety &

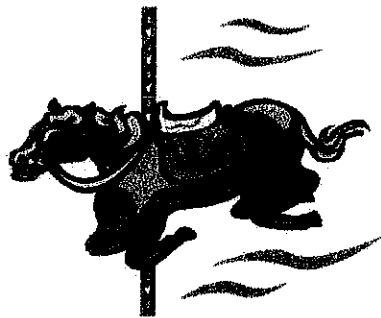
Health; employees payroll clerk; HB2 visa processing; recruitment, hiring & back-ground check verifications; Drug & Alcohol advisor and oversees all employees onsite testing verification; CPR certified, driver's electronic book-keeper; updates, maintains all personnel training files for the show. Cyndie is married and has worked for Paul Maurer Shows for over 15 years. Cyndie is also one of the onsite contacts for any and all customer service issues including incident recorder, ticket, wristband complaints & refunds.

|=====|

Mrs. Carol Lundgren
(Game Operations Manager)
25060 Hancock Ave. 103-307, Murrieta, CA 92561
Cellphone: (951) 541-8050

Carol has been with Paul Maurer Shows and in the carnival industry for now over 23 years. Carol oversees the operation of her and the show's food & games concessions. Prior to coming out to be with her husband, Carol was a professional "stay-at-home" housewife & Mom, raising their (3) children. Carol is food handler certified.

|=====|





CPR TEST CENTER™

PO BOX 620504
CLARK COUNTY NV 89162

To Whom It May Concern:

This letter serves to confirm that Marque Lundgren has successfully completed CPR/AED/First Aid training on December 20, 2022 and has demonstrated proficiency in Adult, Child, and Infant CPR and AED rescue techniques and First Aid.

1.0 CEU/PDU credit is awarded for Continuing Education and Professional Development purposes.

* Paul Maurer Shows has (2) show owned AED devices in our Show office if needed.

Respectfully Yours,

Amy Miller
Program Administrator
CPR Test Center

**CITY OF NATIONAL CITY
 NEIGHBORHOOD SERVICES DEPARTMENT
 APPLICATION FOR A TEMPORARY USE PERMIT
 CONDITIONS OF APPROVAL**

SPONSORING ORGANIZATION: Paul Maurer Shows
EVENT: Kimball Park Winter Carnival
DATE OF EVENT: February 29, 2024 – March 4, 2024

APPROVALS:

COMMUNITY SERVICES	YES [x]	NO []	SEE CONDITIONS []
RISK MANAGER	YES [x]	NO []	SEE CONDITIONS [x]
PUBLIC WORKS	YES [x]	NO []	SEE CONDITIONS [x]
FINANCE	YES [x]	NO []	SEE CONDITIONS []
FIRE	YES [x]	NO []	SEE CONDITIONS [x]
POLICE	YES [x]	NO []	SEE CONDITIONS []
ENGINEERING	YES [x]	NO []	SEE CONDITIONS []
COMMUNITY DEVELOPMENT	YES [x]	NO []	SEE CONDITIONS [x]

CONDITIONS OF APPROVAL:

PUBLIC WORKS (619)366-4580

Streets Division

No involvement

Facilities Division

No involvement

Parks Division

The cost for marking irrigation prior to event: \$200.94

After speaking to the RP they will provide a cleaning crew during and after event so no additional cost from parks for that. The RP will bring additional porta potty and trash bin. RP is responsible for any damages to the lawn and irrigation system. In the case of a heavy rain event that impacts the lawn conditions the event must be rescheduled

POLICE DEPARTMENT

The PD has no comments other than Extra patrol for the event since they will be providing three unarmed security guards for the event. Also we need to clarify if there will there be security overnight since it is a multi-day event.

ENGINEERING

No comments received

RISK MANAGER (619) 336-4370

Risk Management has reviewed the above-captioned request to issue a Temporary Use Permit. It is recommended that as a condition of the issuance of the permit, the following documents must be provided:

- Paul Maurer dba Paul Maurer Shows has provided a valid Certificate of Liability Insurance
- One Shield Services must provide a valid copy of the Certificate of Liability Insurance
- Paul Maurer dba Paul Maurer Shows has provided an insurance policy with a combined single limit of no less than \$1,000,000.00 (ONE MILLION DOLLARS) and \$2,000,000.00 (TWO MILLION DOLLARS) in aggregate that would cover the date and location of the event.
- One Shield Services must provide an insurance policy with a combined single limit of no less than \$1,000,000.00 (ONE MILLION DOLLARS) and \$2,000,000.00 (TWO MILLION DOLLARS) in aggregate that would cover the date and location of the event.
- Paul Maurer dba Paul Maurer Shows must provide a separate additional insured endorsement. It notes the additional insured as "The City of National City."
- One Shield Services must provide a separate additional insured endorsement. The additional insured is "The City of National City, its officials, agents, employees, and volunteers."
- That the insurance company issuing the insurance policy must have an A.M. Best's Guide Rating of A: VII and that the insurance company is a California-admitted company; if not, then the insurance policy must be submitted to the Risk Management Department for review and approval before the issuance of the Temporary Use Permit.
- The Certificate Holder must reflect:
City of National City
c/o Risk Manager
1243 National City Boulevard
National City, CA. 91950-4301

It should be noted that the Indemnification and Hold Harmless Agreement was properly executed by the applicant when the Special Event Application was submitted.

COMMUNITY SERVICES

No comments received

FINANCE

No comments received

COMMUNITY DEVELOPMENT

Planning

1. Lights shall face away from residential properties.

Building

No comments received

Neighborhood Services

Neighborhood Notifications – Events are required to notify residents and/or businesses of the surrounding impacted areas by the event. The notice shall include the name of the event, name and phone number of the company/organization producing the event, the dates and times of the event (including set-up and breakdown) and a detailed description of how the residents and/or businesses may be affected, such as by street closures, “No Parking” signs being posted, music at the event, etc.

Display of banners -- Banners are allowed on site for event but must be removed immediately thereafter event completion. If you wish to place banners in any location other than on-site, you must get approval from the property/business owner where you intend to display the banner.

FIRE (619) 336-4550

INSPECTION REQUIRED

\$1031.00

Total fee amount for all Fire Department permits is one thousand one hundred four dollars (\$1,031.00) dollars. Fees can only be waived by City Council. Additional fees may apply if after hours inspection and large tents or canopies are required or used. A meeting is requested with organization

Stipulations required by the Fire Department for this event are as follows:

- 1) Access to the area to be maintained at all times, entrances and emergency roadways
- 2) Fire Department access into and through event areas are to be maintained at all times. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches. Please see park supervisor for fire lanes required through park
- 3) Fire Department access into and through the carnival and game areas are to be maintained at all times
- 4) Access to Morgan and Kimball Towers to be maintained at all times, to both entrances and Fire Department connections for fire sprinkler systems, standpipes, etc.
- 5) **Access into park from D Ave is required. Currently blocked by new angled parking (Engineering/Public Works)**
- 6) Fire Hydrants shall not be blocked or obstructed
- 7) Participants on foot are to move immediately to the sidewalk upon approach of emergency vehicle(s)
- 8) Vehicles in roadway are to move immediately to the right upon approach of emergency vehicle(s)
- 9) Vehicles shall be isolated from contact with the tents, canopies or membrane structures. Vehicles shall be at least **20** feet away from tents, canopies and membrane structures
- 10) Exit doorways shall be evaluated for compliance by city building official. Occupancy load may be necessary as organization is proposing a fence around perimeter

- 11) Exits shall be clearly marked. Exit signs shall be installed at required exit doorways and where otherwise necessary to indicate clearly the direction of egress when the exit serves and occupant of 50 or more. Exits, aisles and passageways shall not be blocked or have their minimum clear width obstructed in any manner
- 12) The arrangement of aisles shall be subject to approval by the building and fire code official, and shall be maintained clear at all times during occupancy
- 13) The floor surface and grounds outside shall be kept clear of combustible waste. Such waste shall be stored in approved containers until removed from the premises
- 14) Smoking shall not be permitted in amusement area. Approved "No Smoking" signs shall be conspicuously posted
- 15) Internal combustion power sources that may be used for "Emergency Power" shall be of adequate capacity to permit **uninterrupted operation** during normal operating hours
- 16) Internal combustion power sources shall be isolated from contact with the public by either physical guards, fencing or an enclosure
- 17) A drip pan shall be used to capture oils and fuel lost during normal operation
- 18) Any electrical power used, is to be properly grounded and approved. Extension cords shall be used as "Temporary Wiring" only, and shall be protected so as not to create a tripping hazard to the public. **Consult building official for requirements and inspection of possible temporary power/electrical if necessary**
- 19) Fire Department Permit is required for carnival. Permit to be requested and all necessary information provided to the Fire Department a minimum of 14 days prior to the event. Permit fee is one thousand thirty-one dollars (\$1,031). Fees can only be waived by the City Council.
- 20) A fire safety inspection is to be conducted by the Fire Department prior to operations of the carnival. Inspection to include all rides, and cooking area etc. **Required inspections taking place, after hours, holidays, and weekends will be assessed a minimum of two hundred eleven (\$211.00) dollars.** Please contact the National City Fire Department to arrange a time for inspection. Periodic inspections will be conducted by the National City Fire Department for this event. **Additional hours after the first two hours shall be billed at \$191.00 per**
- 21) Cooking area to have one 2A:10BC. If grease or oil is used in cooking a 40:BC or class "K" fire extinguisher will be required. All fire extinguishers to have a current State Fire Marshal Tag attached.

- 22) If tents or canopies are used, tents having an area in excess of 200 square feet and or canopies in excess of 400 square feet or multiple tents and or canopies placed together equaling or greater than the above stated areas, are to be used, they shall be flame-retardant treated with an approved State Fire Marshal seal attached. A ten foot separation distance must be maintained between tents and canopies. A permit from the Fire Department must be obtained. **Cooking shall not be permitted under tents or canopies unless the tents or canopies meet "State Fire Marshal approval for cooking.** Certificate of State Fire Marshal flame resistancy shall be provided to the National City Fire Department if applicable. Fees can only be waived by City Council.

Canopies:

0 – 400 sf -	\$0
401 – 500 sf -	\$391.00
501 – 600 sf -	\$436.00
601 – 700 sf -	\$571.00

Tents:

0 –200 sf -	\$391.00
201 – (+) sf -	\$400.00

Note: PLEASE CONTACT THE DEPUTY FIRE MARSHAL ON QUESTIONS SURROUNDING TENTS AND CANOPIES

Fees can only be waived by City Council



AGENDA REPORT

Department: Engineering
Prepared by: Stephen Manganiello, Director of Public Works/City Engineer
Meeting Date: Tuesday, November 21, 2023
Approved by: Ben Martinez, Interim City Manager

SUBJECT:

Introduction and First Reading of the Ordinance Establishing Speed Limits Based on Engineering and Traffic Surveys

RECOMMENDATION:

Introduce the Ordinance by First Reading, entitled, "Ordinance of the City Council of the City of National City, California, Establishing Speed Limits on Various Streets Based on Engineering and Traffic Surveys and Authorizing the Director of Public Works to Post Speed Limit Signs Consistent with the Recommendations of the Engineering and Traffic Surveys."

BOARD/COMMISSION/COMMITTEE PRIOR ACTION:

At their meeting on August 16, 2023, the Traffic Safety Committee were present and voted unanimously in support of the recommendations of the Engineering and Traffic Surveys.

EXPLANATION:

Section 22357 of the State of California Vehicle Code (CVC) permits local authorities to establish speed limits greater than the prima facie speed limit of 25 miles per hour (mph) when, on the basis of an engineering and traffic survey (E&TS), the local authority determines that a speed greater than 25 mph would facilitate the orderly movement of vehicular traffic and would be reasonable and safe. Section 627 of the CVC and Section 2B.13 of the California Department of Transportation (Caltrans) Manual on Uniform Traffic Control Devices (CA-MUTCD) outline the following criteria to be considered as part of conducting an E&TS:

- 1) Prevailing speeds as determined by traffic engineering measurements.
- 2) Accident Records.
- 3) Highway, traffic, and roadside conditions not readily apparent to the driver.
- 4) Residential Density.
- 5) Safety of bicyclists and pedestrians, with increased consideration for vulnerable pedestrian groups including children, seniors, persons with disabilities, users of personal assistive mobility devices, and the unhoused.

The process begins with establishing speed zones to protect the public from the unreasonable behavior of reckless, unreliable, or otherwise dangerous drivers. Speed zones are also established to advise drivers of road conditions or hazards that may not be readily apparent to a reasonable driver. For that reason, a field review of related road/traffic variables is conducted which considers the analytical data and accident history of a particular roadway segment to

determine a safe and reasonable speed limit. Next the criteria listed above in combination with other factors such as 85th percentile speed, pace, and incremental changes in speeds from one zone to the next, are analyzed using the methodologies established in the CVC and CA-MUTCD to recommend speed limits.

The CVC and CA-MUTCD recommend establishing speed limits at or near the 85th percentile speed, which is defined as the speed at or below which 85 percent of traffic is moving during free flow conditions. Speed limits may, however, be established below the 85th percentile speed (within specified thresholds) if conditions are met for criteria 2) through 5) above. Speed limits established on this basis conform to the consensus of those who drive on the roadways as to what speed is reasonable and safe, and are not dependent on the judgment of one or a few individuals.

State Assembly Bills (AB) 43 and 1938, which went into effect on January 1, 2022 and January 1, 2023, respectively, provide local agencies greater flexibility in setting and reducing speed limits. For example, local agencies may establish a speed limit of 20 mph or 25 mph if criteria is met for defining a “business activity district”. The legislation required updates to the CVC and CA-MUTCD, the last of which was made available to the public in March 2023.

E&TS must be completed and certified by a registered professional Civil or Traffic Engineer at least once every 5, 7 or 14 years, in compliance with CVC Section 40802, to re-evaluate non-statuary speed limits on local roadways and allow for enforcement using radar, laser or other electronic devices. The previous Citywide E&TS for National City were completed in 2017. Recommended speed limits were subsequently adopted by City Council via ordinance in December 2017 and physically posted on the roadways by City Public Works crews shortly thereafter. Since over five years have passed, the National City Engineering & Public Works Department authorized STC Traffic (through an “On-Call” Professional Engineering Services contract) to conduct new E&TS for all Arterial and Collector roadways identified in the National City General Plan Circulation Element.

STC Traffic completed the E&TS for 105 individual roadway segments in accordance with the procedures established by Section 2B.13 of the CA-MUTCD and consistent with all applicable provisions of the CVC. Exhibit A includes figures highlighting the location of the study roadway segments, existing speed limits, changes to speed limits, and recommended speed limits. STC Traffic supported City staff with formal presentations to the Traffic Safety Committee on April 12, 2023 (preliminary findings) and August 16, 2023 (final recommendations). All members of the Traffic Safety Committee were present and voted unanimously in support of the recommendations of the E&TS at their meeting on August 16, 2023. The E&TS summary and recommendations is attached as Exhibit B. STC Traffic applied many of the provisions from AB 43 and AB 1938 to maintain or reduce speed limits, where applicable, including establishment of lower speed limits within a business activity district. If adopted by City Council, 79 speed limits will remain the same, 26 will decrease, and zero of the existing speed limits will increase. A copy of the full E&TS report and certification summary sheets are available in the Office of the City Engineer.

FINANCIAL STATEMENT:

Funding to purchase and install speed limit signs is available through the Public Works Streets Division M&O budget for traffic signs.

RELATED CITY COUNCIL 2020-2025 STRATEGIC PLAN GOAL:

Public Safety

ENVIRONMENTAL REVIEW:

This is not a project under CEQA and is therefore not subject to environmental review.CCR15378;
PRC 21065.

PUBLIC NOTIFICATION:

Agenda Report posted within 72 hours of meeting date and time in accordance with Brown Act.

ORDINANCE:

First Reading

EXHIBITS:

Exhibit A – Speed Limit Figures

Exhibit B – Engineering and Traffic Survey Summary and Recommendations

Exhibit C – Ordinance

Exhibit A

Speed Limit Figures

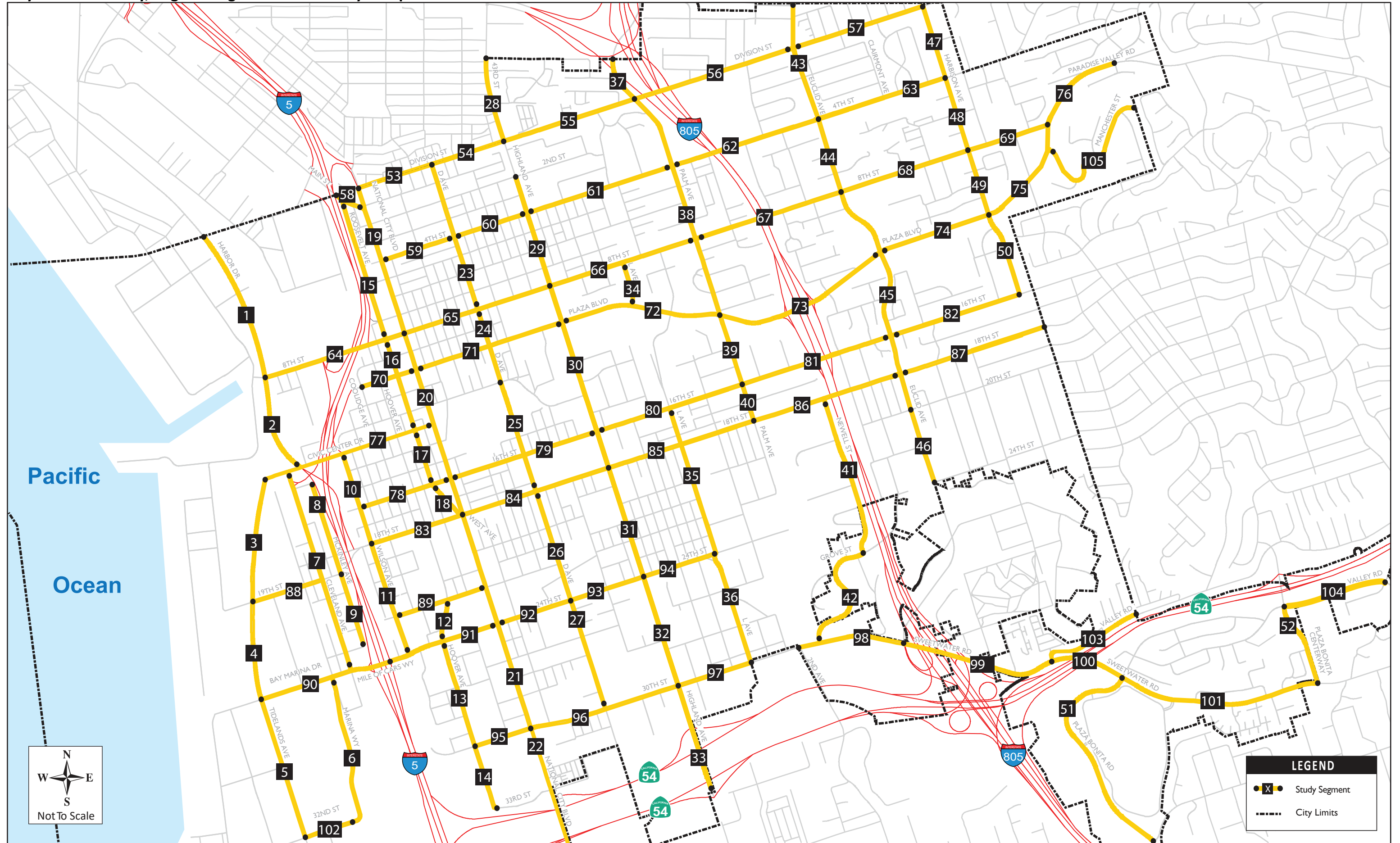
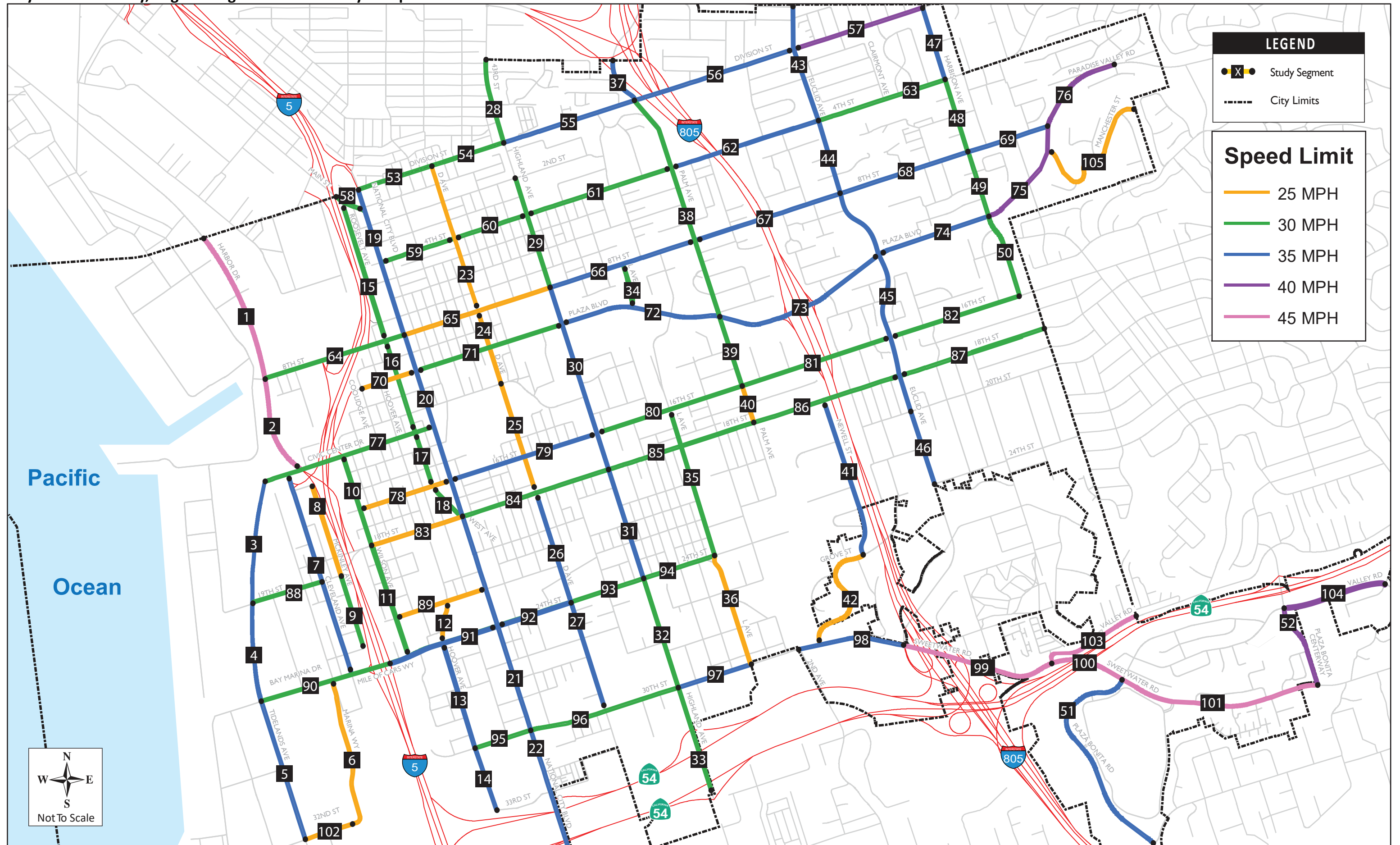
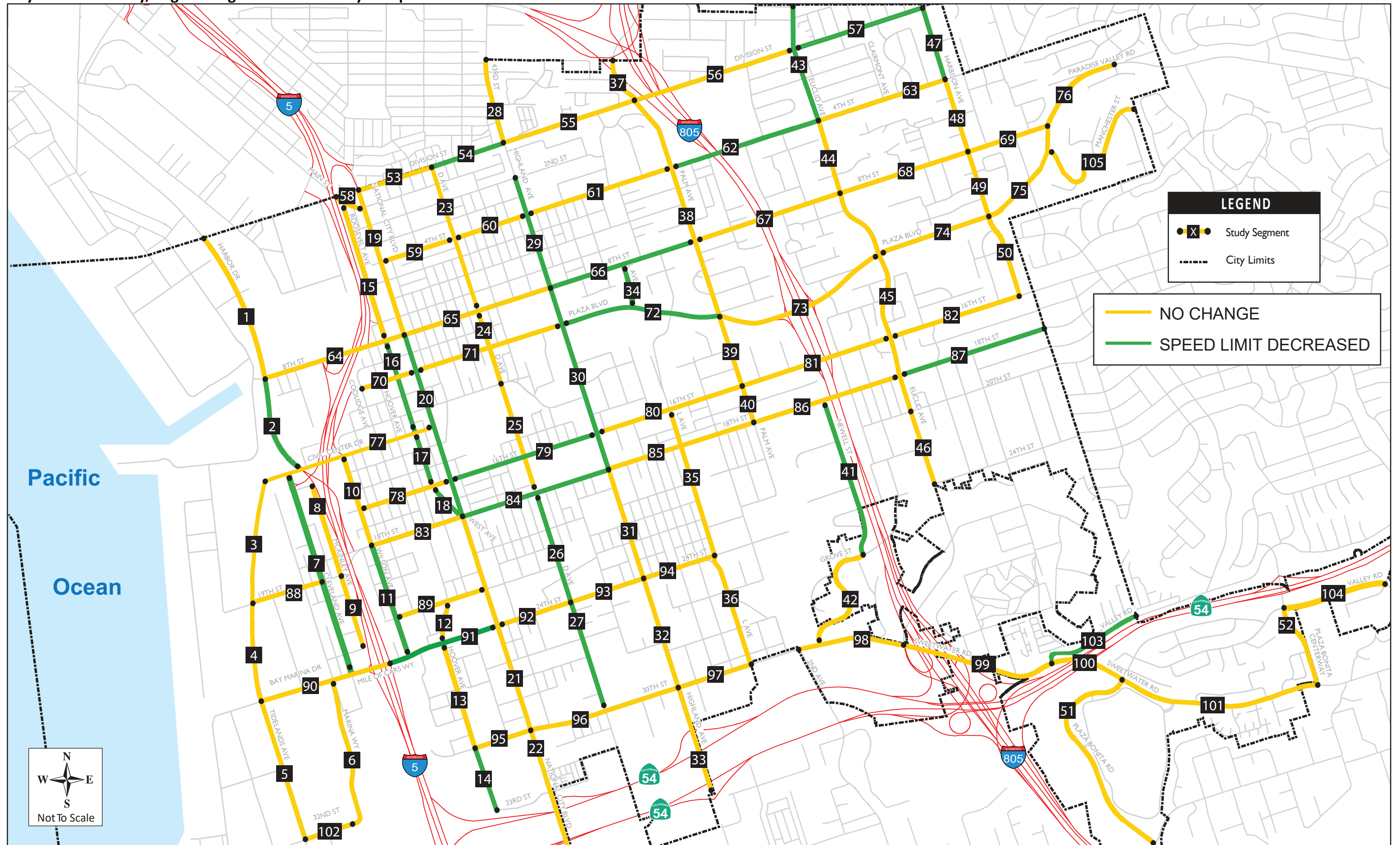


Figure 2-1
Study Segment Locations







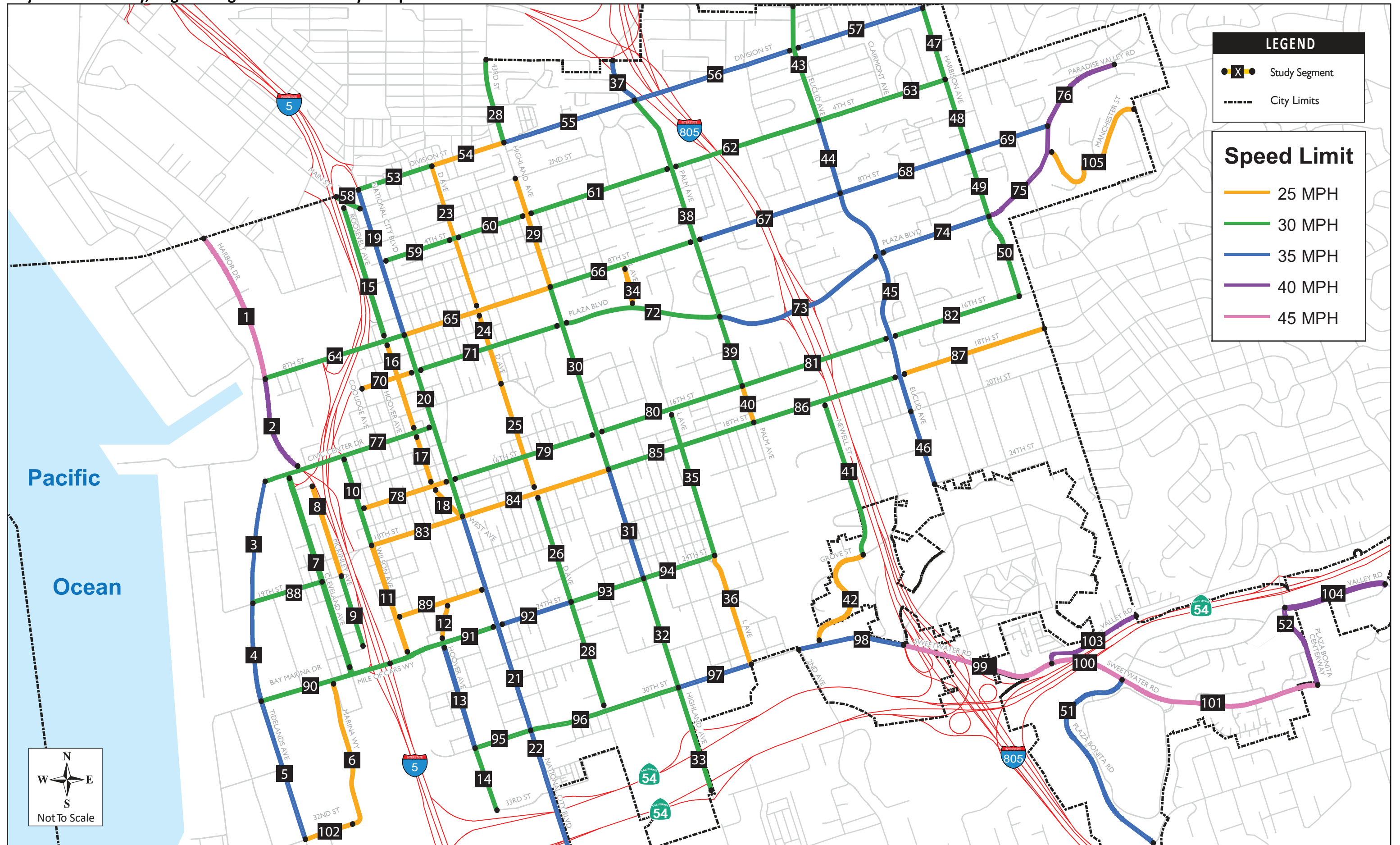


Figure 5-2 Study Segment Recommended Speed Limit Postings



Exhibit B

Engineering and Traffic Survey Summary and Recommendations

5.3 Summary of Recommendations

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
Harbor Drive										
1	N. City Limit	8th Street	45	49	45	39-48	74%	45	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
2	8th Street	Civic Center Drive	45	43	39	34-43	85%	40	Reduce to 40 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
Tidelands Avenue										
3	Civic Center Drive	19th Street	35	37	31	25-34	63%	35	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
4	19th Street	Bay Marina Drive	35	36	31	28-37	68%	35	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
5	Bay Marina Drive	32nd Street	35	36	32	26-35	72%	35	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
Marina Way										
6	Bay Marina Drive	32nd Street	25	33	28	24-33	74%	25	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).
Cleveland Avenue										
7	Civic Center Drive	Bay Marina Drive	35	36	31	27-36	78%	30	Reduce to 30	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate).
McKinley Avenue										
8	14th Street	19th Street	25	28	23	18-27	73%	25	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
9	19th Street	23rd Street	30	31	24	22-31	70%	30	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
Wilson Avenue										
10	Civic Center Drive	18th Street	30	38	32	29-38	68%	30	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12a).
11	18th Street	24th Street	30	30	25	21-30	83%	25	Reduce to 25 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - Transit Station (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).
Hoover Avenue										
12	22nd Street	Mile of Cars Way	25	28	24	21-30	84%	25	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
13	Mile of Cars Way	30th Street	35	38	33	29-38	72%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
14	30th Street	33rd Street	35	32	27	23-32	80%	30	Reduce to 30 mph	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
Roosevelt Avenue										
15	Division Street	8th Street	30	34	30	25-34	84%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
16	8th Street	Civic Center Drive	30	26	23	19-28	95%	25	Reduce to 25 mph	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
17	Civic Center Drive	16th Street	30	30	24	20-29	69%	25	Reduce to 25 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Accident rate higher than statewide average (CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E).
West Avenue										
18	16th Street	18th Street	30	30	23	18-27	66%	25	Reduce to 25 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CA-MUTCD Section 2B.13, Option 16B (pace).

STREET LOCATION		POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS	
National City Blvd										
19	Division Street	8th Street	35	37	33	29-38	91%	35	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
20	8th Street	18th Street	35	36	32	28-37	87%	30	Reduce to 30 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B (safety of bicyclists and pedestrians, vulnerable pedestrian groups - civic center, public library).
21	18th Street	30th Street	35	39	34	30-39	83%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
22	30th Street	S. City Limit	35	41	35	30-39	81%	35	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).
D Avenue										
23	Division Street	8th Street	25	29	26	22-31	96%	25	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
24	8th Street	12th Street	25	26	24	19-28	100%	25	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
25	12th Street	18th Street	25	31	28	24-33	94%	25	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B (safety of bicyclists and pedestrians, vulnerable pedestrian groups - community park, youth center, senior housing, middle school).
26	18th Street	24th Street	35	37	32	28-37	68%	30	Reduce to 30 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627 (c)(1)(C); CA-MUTCD Section 2B.13, Option 29A.3 (residential density).
27	24th Street	30th Street	35	32	29	23-32	82%	30	Reduce to 30 mph	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
<i>Highland Avenue</i>										
28	N. City Limit	Division St	30	38	33	29-38	77%	30	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).
29	2nd Street	8th Street	30	35	31	25-34	78%	25	Reduce to 25 mph	Segment qualifies as a Business Activity District per CVC 22358.9 (b) (1,2, & 4). (b)As used in this section, a "business activity district" is that portion of a highway and the property contiguous thereto that includes central or neighborhood downtowns, urban villages, or zoning designations that prioritize commercial land uses at the downtown or neighborhood scale and meets at least three of the following requirements in paragraphs (1) to (4), inclusive: (1)No less than 50 percent of the contiguous property fronting the highway consists of retail or dining commercial uses, including outdoor dining, that open directly onto sidewalks adjacent to the highway. (2)Parking, including parallel, diagonal, or perpendicular spaces located alongside the highway. (3)Traffic control signals or stop signs regulating traffic flow on the highway, located at intervals of no more than 600 feet. (4)Marked crosswalks not controlled by a traffic control device.
30	8th Street	18th Street	35	34	31	26-35	94%	30	Reduce to 30 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
31	18th Street	24th Street	35	39	35	31-40	88%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
32	24th Street	30th Street	30	39	35	32-41	82%	30	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).
33	30th Street	S. City Limit	30	37	32	28-37	83%	30	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
L Avenue										
34	8th Street	Plaza Boulevard	30	28	25	20-29	85%	25	Reduce to 25 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
35	16th Street	24th Street	30	34	29	25-34	78%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
36	24th Street	30th Street	25	30	27	23-32	87%	25	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627 (c)(1)(C); CA-MUTCD Section 2B.13, Option 29A.3 (residential density).
Palm Avenue										
37	I-805	Division Street	35	40	35	31-40	83%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate).
38	Division Street	Plaza Boulevard	30	34	30	25-34	78%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
39	Plaza Boulevard	16th Street	30	34	30	27-36	83%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
40	16th Street	18th Street	25	30	26	22-31	79%	25	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate).
Newell Street										
41	18th Street	Prospect Street	35	34	29	26-35	75%	30	Reduce to 30 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
Grove Street										
42	Prospect Street	Sweetwater Road	25	30	27	23-32	79%	25	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate).

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
Euclid Avenue										
43	N. City Limit	4th Street	35	36	32	27-36	84%	30	Reduce to 30 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B (safety of bicyclists and pedestrians, vulnerable pedestrian groups - community park).
44	4th Street	8th Street	35	39	34	31-40	77%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
45	8th Street	20th Street	35	37	33	29-38	87%	35	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
46	20th Street	24th Street	35	40	34	30-39	74%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627 (c)(1)(B); CA-MUTCD Section 2B.13, Option 29A.2 (residential density); CA-MUTCD Section 2B.13, Option 16B (pace).
Harbison Avenue										
47	Division Street	4th Street	35	35	30	26-35	76%	30	Reduce to 30 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627 (c)(1)(B); CA-MUTCD Section 2B.13, Option 29A.2 (residential density).
48	4th Street	8th Street	30	35	32	28-37	88%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627 (c)(1)(B); CA-MUTCD Section 2B.13, Option 29A.2 (residential density).
49	8th Street	Plaza Boulevard	30	37	33	27-36	76%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate).
50	Plaza Boulevard	16th Street	30	36	32	28-37	84%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627 (c)(1)(B); CA-MUTCD Section 2B.13, Option 29A.2 (residential density).
Plaza Bonita Road										
51	Sweetwater Road	Bonita Mesa Road	35	44	40	34-43	71%	35	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
Plaza Bonita Center Way										
52	Valley Road	Sweetwater Road	40	47	42	39-48	85%	40	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).
Division Street										
53	National City Boulevard	D Avenue	30	35	28	27-36	64%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate); CVC 627 (c)(1)(A); CA-MUTCD Section 2B.13, Option 29A.1 (residential density).
54	D Avenue	Highland Avenue	30	32	29	25-34	94%	25	Reduce to 25 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627 (c)(1)(A); CA-MUTCD Section 2B.13, Option 29A.1 (residential density).
55	Highland Avenue	Palm Avenue	35	43	38	35-44	79%	35	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).
56	Palm Avenue	Euclid Avenue	35	40	36	32-41	85%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - schools (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).
57	Euclid Avenue	Harbison Avenue	40	41	37	32-41	84%	35	Reduce to 35 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627 (c)(1)(C); CA-MUTCD Section 2B.13, Option 29A.3 (residential density).
Main Street										
58	I-5	National City Boulevard	30	35	30	27-36	86%	30	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
4th Street										
59	National City Boulevard	D Avenue	30	35	31	27-36	88%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate); CVC 627 (c)(1)(B); CA-MUTCD Section 2B.13, Option 29A.2 (residential density).
60	D Avenue	Highland Avenue	30	34	30	25-34	81%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
61	Highland Avenue	Palm Avenue	30	36	32	27-36	80%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627 (c)(1)(C); CA-MUTCD Section 2B.13, Option 29A.3 (residential density).
62	Palm Avenue	Euclid Avenue	35	35	32	27-36	90%	30	Reduce to 30 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups -community park, recreation center (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).
63	Euclid Avenue	Harbison Avenue	30	36	32	28-37	82%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - hospital, senior housing, elementary school (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).
8th Street										
64	Harbor Drive	National City Boulevard	30	35	30	27-36	83%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - Transit Station (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).
65	National City Boulevard	Highland Avenue	25	27	24	20-29	95%	25	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
66	Highland Avenue	Palm Avenue	35	37	33	28-37	87%	30	Reduce to 30 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - church, preschool (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).
67	Palm Avenue	Euclid Avenue	35	42	37	32-41	79%	35	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).
68	Euclid Avenue	Harbison Avenue	35	41	36	33-42	79%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - church, senior housing (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).
69	Harbison Avenue	Paradise Valley Road/ Plaza Boulevard	35	38	34	30-39	86%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
Plaza Blvd										
70	Coolidge Avenue	National City Boulevard	25	28	25	21-30	88%	25	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
71	National City Boulevard	Highland Avenue	30	35	31	26-35	73%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - elementary school (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).
72	Highland Avenue	Palm Avenue	35	32	28	25-34	93%	30	Reduce to 30 mph	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
73	Palm Avenue	Euclid Avenue	35	37	34	30-39	91%	35	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
74	Euclid Avenue	Harbison Avenue	35	39	36	30-39	84%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
75	Harbison Avenue	8th Street	40	42	38	34-43	90%	40	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
Paradise Valley Road										
76	8th Street	Plaza Entrada	40	44	39	35-44	83%	40	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
Civic Center Drive										
77	Harbor Drive	National City Boulevard	30	34	29	25-34	76%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
16th Street										
78	Wilson Avenue	National City Boulevard	25	26	22	18-27	91%	25	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
79	National City Boulevard	Highland Avenue	35	33	30	25-34	85%	30	Reduce to 30 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
80	Highland Avenue	Palm Avenue	30	35	31	26-35	87%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627 (c)(1)(C); CA-MUTCD Section 2B.13, Option 29A.3 (residential density).
81	Palm Avenue	Euclid Avenue	30	32	29	25-34	84%	30	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
82	Euclid Avenue	Harbison Avenue	30	34	30	26-35	87%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
18th Street										
83	Wilson Avenue	National City Boulevard	25	31	28	23-32	93%	25	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - elementary school, church (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).
84	National City Boulevard	Highland Avenue	30	32	28	25-34	89%	25	Reduce to 25 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - elementary school, middle school (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).
85	Highland Avenue	Palm Avenue	30	34	29	25-34	78%	30	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
86	Palm Avenue	Euclid Avenue	30	35	31	25-34	75%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - elementary school (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).
87	Euclid Avenue	Rachael Avenue	30	32	28	24-33	85%	25	Reduce to 25 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - church (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B).

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
19th Street										
88	Tidelands Avenue	Cleveland Avenue	30	35	28	23-32	66%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate).
22nd Street										
89	Wilson Avenue	National City Boulevard	25	35	28	22-31	69%	25	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12a).
Bay Marina Drive										
90	Tidelands Avenue	I-5	30	35	31	26-35	82%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate).
Mile of Cars Way										
91	I-5	National City Boulevard	35	37	32	28-37	78%	30	Reduce to 30 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate).
24th Street										
92	National City Boulevard	D Avenue	35	39	35	31-40	78%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
93	D Avenue	Highland Avenue	30	38	32	29-38	72%	30	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12a).
94	Highland Avenue	L Avenue	30	34	29	25-34	75%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
30th Street										
95	Hoover Avenue	National City Boulevard	30	36	32	28-37	83%	30	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).
96	National City Boulevard	Highland Avenue	30	37	32	28-37	74%	30	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - Safety of bicyclists and pedestrians, vulnerable pedestrian groups - high school (CVC 627(c)(2); CA-MUTCD Section 2B.13, Option 29B), Accident rate higher than statewide average (CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E).
97	Highland Avenue	L Avenue	35	37	33	30-39	83%	35	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
Sweetwater Road										
98	2nd Avenue	I-805/Euclid Avenue	35	41	37	34-43	88%	35	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate).
99	I-805/Euclid Avenue	Valley Road	45	46	42	37-46	82%	45	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
100	Valley Road	Plaza Bonita Road	45	46	41	37-46	69%	45	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)
101	Plaza Bonita Road	Plaza Bonita Center Way	45	48	43	39-48	79%	45	No change	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding up, the speed limit may be rounded down to the nearest 5 mph increment below the 85th percentile speed, if no further reduction is used (CVC 22358.6(c); CA-MUTCD Section 2B.13, Standard 12a, Option 2).
32nd Street										
102	Tidelands Avenue	Marina Way	25	33	26	23-32	64%	25	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).

STREET LOCATION			POSTED SPEED LIMIT (MPH)	85TH PERCENTILE SPEED (MPH)	MEDIAN SPEED (MPH)	10 MPH PACE RANGE	PERCENT OF VEHICLES IN PACE	RECOMMENDED SPEED LIMIT (MPH)	RECOMMENDED ACTION	JUSTIFICATIONS/ COMMENTS
Valley Road										
103	Sweetwater Road	Calle Abajo	45	46	41	37-46	82%	40	Reduce to 40 mph	When the nearest 5 mph increment of the 85th-percentile speed would require a rounding down, the speed may be reduced by 5 mph from the nearest 5 mph increment of the 85th-percentile speed (CVC 22358.6(b); CA-MUTCD Section 2B.13, Standard 12a, Option 1) - CVC 627(b)(2); CA-MUTCD Section 2B.13, Option 16E (accident rate).
104	Plaza Bonita Center Way	San Miguel Court	40	45	39	34-43	61%	40	No change	Currently adopted speed limit or immediately prior adopted speed limit shall only be retained, by ordinance, if after completing an E&TS, local agency finds that the speed limit is still more than reasonable or safe, and that speed limit was established with an E&TS and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit (CVC 22358.8(a); CA-MUTCD Section 2B.13, Standard 12ag).
Manchester Street										
105	Plaza Boulevard	Angelo Drive	25	26	22	18-27	85%	25	No change	Speed limit shall be established at the nearest 5 mph increment of the 85th-percentile speed of free-flowing traffic. (CVC 22358.6(a); CA-MUTCD Section 2B.13, Standard 12a)

ORDINANCE NO. 2023 -

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, ESTABLISHING SPEED LIMITS ON VARIOUS STREETS BASED ON ENGINEERING AND TRAFFIC SURVEYS AND AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO POST SPEED LIMIT SIGNS CONSISTENT WITH THE RECOMMENDATIONS OF THE ENGINEERING AND TRAFFIC SURVEYS.

WHEREAS, section 22357 of the State of California Vehicle Code (CVC) permits local authorities to establish speed limits greater than the prima facie speed limit of 25 miles per hour (mph) when, on the basis of an engineering and traffic survey (E&TS), the local authority determines that a speed greater than 25 mph would facilitate the orderly movement of vehicular traffic and would be reasonable and safe; and

WHEREAS, State Assembly Bills (AB) 43 and 1938, which went into effect on January 1, 2022 and January 1, 2023, respectively, provide local agencies greater flexibility in setting and reducing speed limits; and

WHEREAS, section 627 of the CVC and Section 2B.13 of the California Department of Transportation Manual on Uniform Traffic Control Devices (CA-MUTCD) outline the criteria to be considered as part of conducting an E&TS, including that an E&TS be completed and certified by a registered professional Civil or Traffic Engineer at least once every 5, 7 or 14 years, in compliance with CVC Section 40802, to re-evaluate non-statutory speed limits on local roadways and allow for enforcement using radar, laser or other electronic devices; and

WHEREAS, an E&TS for 105 individual roadway segments was completed in accordance with the procedures established by Section 2B.13 of the CA-MUTCD and consistent with all applicable provisions of the CVC, and formal presentations were made to the Traffic Safety Committee on April 12, 2023 (preliminary findings) and August 16, 2023 (final recommendations), where the Traffic Safety Committee ultimately voted unanimously in support of the recommendations of the E&TS at their meeting on August 16, 2023; and

WHEREAS, based on the findings and recommendations of the E&TS, 79 speed limits will remain the same, 26 will decrease, and zero of the existing speed limits will increase; and

WHEREAS, staff recommends the City Council authorize establishing speed limits on various streets based on the E&TS and authorize the Director of Public Works to post speed limit signs consistent with the recommendations of the E&TS.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, HEREBY ORDAINS AS FOLLOWS:

Section 1: That, pursuant to authority under the California Vehicle Code including, but not limited to, sections 22357 and 40802, and on the basis of engineering and traffic surveys conducted and certified in accordance with applicable State law and regulations, the City Council hereby establishes the following recommended speed limits as reasonable and safe to facilitate the orderly movement of vehicular traffic on the portions of roadways within the City of National City, summarized in subsections “A” through “E” below, and authorizes the Director of Public Works to post speed limit signs consistent with the recommendations of the Engineering and Traffic Surveys:

A. Twenty-five miles per hour is declared and established as the prima facie speed limit on the following streets:

1. 8th Street from National City Boulevard to Highland Avenue
2. 16th Street from Wilson Avenue to National City Boulevard
3. 18th Street from Wilson Avenue to National City Boulevard
4. 18th Street from National City Boulevard to Highland Avenue
5. 18th Street from Euclid Avenue to Rachael Avenue
6. 22nd Street from Wilson Avenue to National City Boulevard
7. 32nd Street from Tidelands Avenue to Marina Way
8. “D” Avenue from Division Street to 8th Street
9. “D” Avenue from 8th Street to 12th Street
10. “D” Avenue from 12th Street to 18th Street
11. Division Street from “D” Avenue to Highland Avenue
12. Grove Street from Prospect Street to Sweetwater Road
13. Highland Avenue from 2nd Street to 8th Street
14. Hoover Avenue from 22nd Street to Mile of Cars Way
15. “L” Avenue from 8th Street to Plaza Boulevard
16. “L” Avenue from 24th Street to 30th Street
17. Manchester Street from Plaza Boulevard to Angelo Drive
18. Marina Way from Bay Marina Drive to 32nd Street
19. McKinley Avenue from 14th Street to 19th Street
20. Palm Avenue from 16th Street to 18th Street
21. Plaza Boulevard from Coolidge Avenue to National City Boulevard
22. Roosevelt Avenue from 8th Street to Civic Center Drive
23. Roosevelt Avenue from Civic Center Drive to 16th Street
24. West Avenue from 16th Street to 18th Street
25. Wilson Avenue from 18th Street to 24th Street

B. Thirty miles per hour is declared and established as the prima facie speed limit on the following streets:

1. 4th Street from National City Boulevard to “D” Avenue
2. 4th Street from “D” Avenue to Highland Avenue

3. 4th Street from Highland Avenue to Palm Avenue
4. 4th Street from Palm Avenue to Euclid Avenue
5. 4th Street from Euclid Avenue to Harbison Avenue
6. 8th Street from Harbor Drive to National City Boulevard
7. 8th Street from Highland Avenue to Palm Avenue
8. 16th Street from National City Boulevard to Highland Avenue
9. 16th Street from Highland Avenue to Palm Avenue
10. 16th Street from Palm Avenue to Euclid Avenue
11. 16th Street from Euclid Avenue to Harbison Avenue
12. 18th Street from Highland Avenue to Palm Avenue
13. 18th Street from Palm Avenue to Euclid Avenue
14. 19th Street from Tidelands Avenue to Cleveland Avenue
15. 24th Street from "D" Avenue to Highland Avenue
16. 24th Street from Highland Avenue to "L" Avenue
17. 30th Street from Hoover Avenue to National City Boulevard
18. 30th Street from National City Boulevard to Highland Avenue
19. Bay Marina Drive from Tidelands Avenue to I-5
20. Civic Center Drive from Harbor Drive to National City Boulevard
21. Cleveland Avenue from Civic Center Drive to Bay Marina Drive
22. "D" Avenue from 18th Street to 24th Street
23. "D" Avenue from 24th Street to 30th Street
24. Division Street from National City Boulevard to "D" Avenue
25. Euclid Avenue from North City Limit to 4th Street
26. Harbison Avenue from Division Street to 4th Street
27. Harbison Avenue from 4th Street to 8th Street
28. Harbison Avenue from 8th Street to Plaza Boulevard
29. Harbison Avenue from Plaza Boulevard to 16th Street
30. Highland Avenue from National City Limit to Division Street
31. Highland Avenue from 8th Street to 18th Street
32. Highland Avenue from 24th Street to 30th Street
33. Highland Avenue from 30th Street to South City Limit
34. Hoover Avenue from 30th Street to 33rd Street
35. "L" Avenue from 16th Street to 24th Street
36. Main Street from I-5 to National City Boulevard
37. McKinley Avenue from 19th Street to 23rd Street
38. Mile of Cars Way from I-5 to National City Boulevard
39. National City Boulevard from 8th Street to 18th Street
40. Newell Street from 18th Street to Prospect Street
41. Palm Avenue from Division Street to Plaza Boulevard
42. Palm Avenue from Plaza Boulevard to 16th Street
43. Plaza Boulevard from National City Boulevard to Highland Avenue
44. Plaza Boulevard from Highland Avenue to Palm Avenue
45. Roosevelt Avenue from Division Street to 8th Street
46. Wilson Avenue from Civic Center Drive to 18th Street

C. Thirty-five miles per hour is declared and established as the prima facie speed limit on the following streets:

1. 8th Street from Palm Avenue to Euclid Avenue
2. 8th Street from Euclid Avenue to Harbison Avenue
3. 8th Street from Harbison Avenue to Paradise Valley Road/Plaza Boulevard
4. 24th Street from National City Boulevard to "D" Avenue
5. 30th Street from Highland Avenue to "L" Avenue
6. Division Street from Highland Avenue to Palm Avenue
7. Division Street from Palm Avenue to Euclid Avenue
8. Division Street from Euclid Avenue to Harbison Avenue
9. Euclid Avenue from 4th Street to 8th Street
10. Euclid Avenue from 8th Street to 20th Street
11. Euclid Avenue from 20th Street to 24th Street
12. Highland Avenue from 18th Street to 24th Street
13. Hoover Avenue from Mile of Cars Way to 30th Street
14. National City Boulevard from Division Street to 8th Street
15. National City Boulevard from 18th Street to 30th Street
16. National City Boulevard from 30th Street to South City Limit
17. Palm Avenue from I-805 to Division Street
18. Plaza Bonita Road from Sweetwater Road to Bonita Mesa Road
19. Plaza Boulevard from Palm Avenue to Euclid Avenue
20. Plaza Boulevard from Euclid Avenue to Harbison Avenue
21. Sweetwater Road from 2nd Avenue to I-805/Euclid Avenue
22. Tidelands Avenue from Civic Center Drive to 19th Street
23. Tidelands Avenue from 19th Street to Bay Marina Drive
24. Tidelands Avenue from Bay Marina Drive to 32nd Street

D. Forty miles per hour is declared and established as the prima facie speed limit on the following streets:

1. Harbor Drive from 8th Street to Civic Center Drive
2. Paradise Valley Road from 8th Street to Plaza Entrada
3. Plaza Bonita Center Way from Valley Road to Sweetwater Road
4. Plaza Boulevard from Harbison Avenue to 8th Street
5. Valley Road from Sweetwater Road to Calle Abajo
6. Valley Road from Plaza Bonita Center Way to San Miguel Court

E. Forty-five miles per hour is declared and established as the prima facie speed limit on the following streets:

1. Harbor Drive from North City Limit to 8th Street
2. Sweetwater Road from I-805/Euclid Avenue to Valley Road
3. Sweetwater Road from Valley Road to Plaza Bonita Road
4. Sweetwater Road from Plaza Bonita Road to Plaza Bonita Center Way

Section 2: 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.

Section 3: The City Clerk shall certify to the adoption of this Ordinance and shall public in accordance with the law.

INTRODUCED at a regular meeting of the City Council of the City of National City, California, held on this 21st day of November, 2023.

PASSED and ADOPTED this _____ of _____, 2023.

Ron Morrison, Mayor

ATTEST:

Shelley Chapel, MMC, City Clerk

APPROVED AS TO FORM:

Barry J. Schultz, City Attorney



AGENDA REPORT

Department: Police Department
Prepared by: Joseph Camacho, Police Sergeant
Meeting Date: Tuesday, November 7, 2023
Approved by: Ben Martinez, Interim City Manager

SUBJECT:

Second Reading and Adoption of Ordinances Amending National City Municipal Code Section 10.70 – Police Regulated Business Regulations and 10.79 – Massage Establishments.

RECOMMENDATION:

Second Reading and Adoption of the Ordinances Entitled:

“An Ordinance of the City Council of the City of National City, California, Amending Chapter 10.70 Police Regulated Business Regulations of the National City Municipal Code; and

An Ordinance of the City Council of the City of National, California, Amending Chapter 10.79 Massage Establishments Regulations of the National City Municipal Code.”

BOARD/COMMISSION/COMMITTEE PRIOR ACTION:

Not Applicable.

SUMMARY:

Below is a brief summary of the recommended changes to the National City Municipal Code:

- Section 10.70 – Police Regulated Businesses Regulations
 - Minor updates and cleanup for clarity.
 - Inclusion of additional criteria for permit denial – the applicant for a massage establishment permit cannot have had a permit denied, suspended, or revoked for cause by any governmental agency or a massage practitioner certification denied, suspended, or revoked by the CAMTC.
 - The appeal procedures have been updated to be consistent with the City’s administrative appeal section.

- Section 10.79 – Massage Establishments
 - Updates to the definition section for additional clarity.
 - Updates to the massage establishment operating requirements:
 - It is unlawful for massage establishments to operate under any name that is not specified in the massage establishment permit issued.
 - Inclusion of limitations on who can be present in massage therapy rooms and in the waiting area.
 - Updates to massage establishment prohibited conduct:
 - Employment of a person lacking state certification as a receptionist without prior notification and approval by the City.

- Operating after the sale or transfer of the massage establishment to a person not identified as the owner on the massage establishment permit application.

EXPLANATION:

The National City Police Department (NCPD) submitted the National City Municipal Code Sections regarding Police Regulated Business Regulations (NCCMC Section 10.70) and Massage Establishments (NCCMC Section 10.79) to the California Massage Therapy Council (CAMTC) for review to assist with the enforcement, regulation and removal of illicit massage parlors in National City.

CAMTC completed the review of the National City Municipal Code sections and returned their review to the National City Police Department with several recommended corrections, additions and modifications to the National City Municipal Code to aid the police department, code enforcement and the city attorney's office with the enforcement, regulation and removal of illicit massage parlors in National City.

NCPD forwarded the recommended corrections to the City Attorney's Office for review. The City Attorney's Office assisted by making the recommended corrections, additions and modifications to the National City Municipal Code to submit for approval to the City Council of the City of National City.

At their regular meeting on November 7, 2023, the City Council held a Public hearing and introduced the Ordinances.

FINANCIAL STATEMENT:

Not Applicable.

RELATED CITY COUNCIL 2020-2025 STRATEGIC PLAN GOAL:

Public Safety

ENVIRONMENTAL REVIEW:

This is not a project under CEQA and is therefore not subject to environmental review.CCR15378; PRC 21065.

PUBLIC NOTIFICATION:

Agenda Report posted within 72 hours of meeting date and time in accordance with Brown Act.

ORDINANCE:

First Reading

EXHIBITS:

Exhibit A – Redline Section 10.70 Police Regulated Business Regulations

Exhibit B – Redline Section 10.79 Massage

Exhibit C – Ordinance – Section 10.70 Police Regulated Business Regulations

Exhibit D – Ordinance – Section 10.79 Massage

Chapter 10.70 POLICE REGULATED BUSINESS REGULATIONS

10.70.010 Purpose and intent—Permit required.

- A. It is the purpose and intent of the city council to establish procedures for permit issuance and regulation of certain businesses and activities as police regulated for the protection of the public health, safety, and welfare. Businesses identified in this Division X (Chapters 10.70 through 10.79) have a higher degree of potential for one or more types of illicit activity - prostitution, disorderly conduct, gambling, fraudulent practices, or the concealment or facilitation of transfers of stolen property. Therefore, regulation of the operations of these establishments is appropriate to protect legitimate business practice and the public health, safety and welfare.
- B. A business, activity or a performer or technician which is identified in Chapters 10.71 through 10.79 is designated a "regulated business," "regulated activity," "regulated performer" or "regulated technician," as the case may be, and the specific regulations applicable to their conduct are set out in Chapters 10.71 through 10.79. The procedures set out in this Chapter 10.70 shall uniformly govern the administration and appeals process regarding the issuance, denial, suspension, or revocation of any permit required to operate as a regulated business or activity or as a regulated performer or technician pursuant to Chapters 10.71 through 10.79.
- C. The issuance of a permit pursuant to this chapter does not excuse a regulated business, activity, performer, or technician from complying with any other revenue or regulatory requirement of this code or state law. A separate permit shall be required for each type of activity regulated by Chapters 10.71 through 10.79, unless otherwise provided. The issuance of a certificate or permit under other provisions of this code does not excuse compliance with or create a defense to any violation of the requirements of this chapter or Chapters 10.71 through 10.79, as applicable, or any other provisions of law or ordinance, including conditional use permits required under Title 18.
- D. It is unlawful for any person to operate a business or activity or perform or practice as a performer or technician regulated by this chapter and Chapters 10.71 through 10.79, as applicable, without a valid permit issued by the chief of police or designee, or to operate, perform or practice while the permit is suspended or revoked. Each day a violation of this section exists constitutes a separate misdemeanor.

(Ord. 2220 § 1(part), 2003: Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.020 Definitions.

For purposes of Chapters 10.70 through 10.79, the following definitions shall apply:

- A. "Person" means and includes a natural person, a partnership, joint venture or a corporation.
- B. "Operator" means any person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the daily operation, conduct or activities of the regulated business or activity.
- C. "Owner" means any person or entity having an ownership interest in the establishment.
- D. "Responsible person" means any person who is an owner, operator, or manager, and includes any employee or agent in apparent charge of the premises for which the application is made or required or a permit is issued.

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- E. "Permit" means a permit issued by or under the authority of the chief of police or designee that authorizes activity regulated under Chapters 10.71 through 10.79.
 - F. "Permittee" means an owner to whom a permit issued by or under the authority of the chief of police or designee that authorizes activity regulated under Chapters 10.71 and 10.79.
 - G. "Applicant" means the natural person(s) who complete and sign an application pursuant to this chapter.

(Ord. 2220 § 1 (part), 2003: Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.030 Applications.

- A. Any person required to obtain a permit pursuant to Chapters 10.71 through 10.79 shall file a written application with the chief of police or designee on a city-approved form, and pay the non-refundable fee set forth in the National City fee schedule, to recoup all investigative costs. The applicant shall provide proof of payment of any regulatory fees imposed by the state of California or county of San Diego contemporaneously with the filing. Written application forms prepared by the chief of police or designee may require the applicant to be photographed, finger printed and to provide, in addition to the information listed below, such other information as is reasonably necessary to carry out the purposes of this chapter. The application form shall be approved as to form by the city attorney. For massage establishments, the application shall be completed and signed by the owner of the proposed massage establishment, if a sole proprietorship; one general partner, if the owner is a partnership; or two officers, if the owner is a corporation.
- B. An applicant for a permit shall submit the following information:
 - 1. The full name of the business, including the name under which the business will be conducted;
 - 2. The address where the business is to be conducted;
 - 3. The applicant's full, true name, and any other names used;
 - 4. The applicant's date of birth;
 - 5. The applicant's present residential address and telephone number;
 - 6. The previous addresses of the applicant for the three years immediately prior to the date of the application and the dates of residence at each;
 - 7. Applicant's height, weight, color of eyes and hair;
 - 8. Three recent portrait photographs at least two inches by two inches taken within the preceding six months, which accurately depict the current appearance of the applicant;
 - 9. The applicant's driver's license and/or identification card issued by a state or federal governmental agency, or other photographic identification bearing a bona-fide seal of a foreign government;
 - 10. If the owner is a corporation, domestic stock, domestic non-profit, qualified foreign corporation, limited liability company, general partnership, or limited partnership, the application shall include the following:
 - a. A business entity status report issued by the California Secretary of State;
 - b. Organizational documents for the business entity including but not limited to a copy of the fictitious name statement and/or articles of incorporation;

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- c. Full name, date of birth, residential address, and business address for each officer and director;
 - d. The name, date of birth, and residence addresses of the responsible employee(s) to be principally in charge of the day-to-day operations of the establishment.
 - e. The full name of the owner, including any DBAs.
11. The tax identification number for the business;
 12. The name, address, email address, and telephone number of the real property owner where the business will be operated, and a copy of the lease or rental agreement, if applicable;
 13. The business license and permit history of the applicant, including whether the applicant when previously operating in this or another city or state under a certificate, license or permit, has had that certificate, license or permit suspended or revoked, the reason therefore, and the business activity or occupation subsequent to the suspension or revocation;
 14. For massage establishment businesses regulated under Chapter 10.79, a copy of the massage practitioner certificate issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code for each owner who has been issued a certificate, or a statement that such a certificate has not been issued or has been previously denied or revoked by the California Massage Therapy Council or cancelled with information regarding the reason therefore such revocation or cancellation;
 15. For massage establishment businesses regulated under Chapter 10.79, a list of all persons who will administer massage, including but not limited to employees and independent contractors. Such list shall include the full true name and any other names used, date of birth, residence address and copy of their driver's license or any other photo identification card issued by a state or federal agency, and a copy of the valid massage practitioner certificate issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code;
 16. For massage establishment businesses regulated under Chapter 10.79, all services must be described on the application for the permit;
 17. Business, occupation, or employment history of the applicant for the three years immediately preceding the date of the application;
 18. A list, broken down for each applicant, each responsible employee(s) to be principally in charge of the day-to-day operations of the establishment, and all partners if a partnership, or all officers and directors if a corporation, of all criminal convictions, including pleas of nolo contendere, within the preceding five years, including those dismissed or expunged pursuant to Penal Code section 1203.4, but excluding minor traffic violations, and the date and place of each such conviction, as well as a full explanation of the circumstances;
 19. A complete set of fingerprints taken for each owner if a sole proprietorship, or each natural person, including the owner and operator or person to be principally in charge of the day-to-day operations of the establishment; unless in the case of massage establishment businesses, they hold a valid massage practitioner certificate issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code;
 20. A signed statement authorizing the city, through its officers, agents, and employees, to conduct a background check of the applicant, owners(s), and natural persons to be principally in charge of the day-to-day operations to seek information and conduct an investigation into the truthfulness of the statements set forth in the application and to ensure continual compliance with all applicable provisions of the law;

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21. A signed acknowledgment that the owner(s) shall be responsible for the conduct of all employees or independent contractors working on the premises of the business and acknowledging that failure to comply with the provisions of this chapter or any local, state or federal law and, for massage establishment businesses regulated under Chapter 10.79, failure to comply with California Business and Professions Code section 4600 et seq., may result in the suspension, revocation, or denial of the permit;
 22. An acknowledgement that the applicant consents to periodic inspection of the regulated premises or activity, and that revocation of the permit may occur for any unjustified refusal to allow the same;
 23. An acknowledgement that the applicant has received a copy of Chapter 10.70 and any applicable chapter from Chapters 10.71 through 10.79 which regulate the business or activity of the applicant; and
 24. A signed statement by the applicant certifying under penalty of perjury that all information in the application is true and correct, and acknowledging that failure to be truthful may result in denial of the application.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.040 Investigation.

The chief of police or designee, upon receipt of a written application for a permit and payment of the necessary fees shall promptly conduct an appropriate investigation to determine whether a permit should be issued in accordance with the provisions of this chapter. The chief of police or designee shall consider any relevant factual material relating to such application.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.050 Permit issuance or denial.

- A. Issuance. The chief of police or designee may deny a permit application, based upon investigation and substantial evidence, if he or she finds one or more of any of the following:
 1. That the operation or the premises of the activity, as proposed by the applicant, would violate any applicable laws, including but not limited to the city's fire, building, zoning and health regulations; or
 2. That the applicant, any other person who will be directly engaged in the management and operation of the regulated business or activity, or an applicant who is to participate or perform services as a regulated technician or performer:
 - a. Has been convicted in any court of competent jurisdiction by a final judgment of any misdemeanor or felony, within the five years preceding the date of application, which rationally and reasonably relates to the conduct of the regulated activity; or
 - b. Has allowed acts to occur in any business operations for the preceding five years which would violate those sections of the Penal Code listed in Section 10.70.050A.2.d, or any provision of this chapter or Chapter 10.79, irrespective of a conviction or acquittal; or

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- c. Has had a permit to operate a business that is or would be regulated pursuant to Chapters 10.70 through 10.79 suspended or revoked in any jurisdiction, within the preceding five years; or
 - d. Within the five years immediately preceding the date of the filing of the application, has been convicted in a court of competent jurisdiction of any of the following offenses:
 - (1) An offense that requires registration under California Penal Code Section 290; or
 - (2) An offense which is a violation of Sections 311 through 311.7, 313.1, 314, 315, 316, 318 or 647(a), 647(b), 647(d), 647(h), ~~653.22~~, 653.23 or 290 of the California Penal Code; or
 - (3) An offense that is a reduction from any offense listed in Section 10.70.050A.2.d. (1) or (2) to some other offense under the Penal Code which would not require registration, pursuant to a plea of guilty negotiated prior to trial; or
 - (4) Any misdemeanor or felony involving theft of property; or
 3. That the applicant has made any false, misleading or fraudulent material statement of fact in the permit application, or any other related document required by the city in connection with the application; or
 4. The applicant has not complied with the provisions of this chapter and Chapter 10.79; or
 5. The applicant has had a massage establishment permit or other similar license or permit denied, suspended or revoked for cause by any governmental agency; or the applicant has any massage practitioner certification denied, suspended or revoked by the California Massage Therapy Council.
 5. For establishments regulated by Chapter 10.79, the applicant proposes to locate the massage establishment in the same building as a massage establishment that has surrendered its permit or had its permit revoked within five years of the application date because a person engaged in any criminal conduct and/or violation of this chapter or Chapter 10.79 while on the premises of the former massage establishment; or
 6. That the application is incomplete and the required information or documents were not submitted within twenty days of a request for the information or documents.
- B. Timeliness and Conditional Issuance of Permit. Upon receipt of a properly completed application, the chief of police or designee shall either approve or deny the application within thirty days. Failure to take action on a permit application within thirty days shall not result in an automatic approval. If the chief of police or designee is awaiting investigation results from another governmental agency within those thirty days, the chief of police or designee shall issue a revocable conditional permit on the thirtieth day if a local records check fails to disclose any disqualifying information and the operation would otherwise be in compliance with all other applicable laws and regulations; except that a revocable conditional permit shall not be issued to an escort or massage technician or operator until it affirmatively appears that there is no disqualifying information, in order to avoid the potential for physical harm to a potential patron pending final action. Any revocable conditional permit shall be revoked if further investigation discloses the existence of a disqualifying factor under this Section 10.70.050.
- C. An applicant whose application is denied based on subsection (A)(1) through (A)(5) of this section is not eligible to reapply for five years after notice of denial. An applicant whose application is denied for failure to comply with subsection (A)(6) is not eligible to reapply for one hundred eighty days after notice of denial.
- D. Permits must be exercised within one year of issuance or shall be deemed abandoned.
- E. A permit is deemed abandoned if the establishment which has exercised its permit ceases operations covered by the permit for one hundred eighty days.

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- F. A permit issued pursuant to this chapter shall not be operative until and unless all other required local, state, or federal licenses and permits have been obtained.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.060 Notice of decision.

Upon taking final action to issue or deny a permit application, or to suspend or revoke a permit under Section 10.70.080, the chief of police or designee shall give written notice of decision and the reasons to the applicant or permittee and to any other person requesting such notice. The notice of decision shall inform the applicant or permittee of the right to appeal under Section 10.70.070 and the time limits prescribed for such review. The chief of police or designee shall file a proof of service with the city clerk establishing the method and date of service. The issuance of the notice of decision shall begin the running of any period of limitation for ~~city council or~~ judicial review under Section 10.70.070 as follows:

- A. Three calendar days after mailing a notice of decision to the address shown on the application by both first class mail, postage prepaid with return address clearly marked, and by certified mail, return receipt requested. Receipt of either by the addressee shall constitute service of notice. Actual receipt, however, shall not be a pre-requisite to the running of any period of limitation.
- B. Immediately upon personal service or personal delivery of the notice of decision to the applicant or permittee.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.070 Appeal.

- A. Any applicant or permittee aggrieved by the decision of the chief of police or designee regarding the issuance, conditional issuance, suspension, revocation or denial of a permit, shall have a right to request a hearing to appeal or contest the decision to the city council pursuant to Section 1.42.020.
- ~~B. An appeal to the city council must be perfected within fifteen calendar days after the service of a notice of decision by filing a letter of appeal with the city clerk stating the basis for the appeal. An applicant or permittee filing an appeal shall pay a nonrefundable fee to the finance department at the time the appeal is filed. The amount of such fee shall be as determined from time to time by resolution of the city council. Upon receipt of the letter of appeal and proof of payment of the appeal fee, the city clerk shall set the matter for consideration by the city council at a regularly scheduled meeting as soon as reasonably practicable. The city clerk shall give the appealing party, and any other person requesting the same, at least five calendar days written notice of the time and place of such hearing.~~
- ~~C. At the time and place set for the hearing, the city council shall give the appealing party and any other interested party a reasonable opportunity to be heard and show cause why the determination of the chief of police or designee should not be upheld. After the chief of police or designee has presented the statement of facts upon which the determination was made, the burden to show that the action taken by the chief of police or designee was not based on substantial evidence, or was arbitrary, capricious, or unjustified shall be upon the appealing party. The determination of the city council shall be final and conclusive and shall constitute the exhaustion of administrative remedy. The written determination of the city council shall be served upon the appealing party by the city clerk. Service shall conform to Section 10.70.060, and shall~~

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~~govern the commencement of any period of limitation for judicial review under Code of Civil Procedure Sections 1094.6 or 1094.8, whichever is applicable.~~

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.080 Suspension and revocation.

- A. The chief of police or designee may suspend or revoke any permit issued under the provisions of this chapter if he or she finds that:
1. The operation conducted by the permittee violates or has violated any applicable laws, including but not limited to the city's building, zoning and health regulations and Chapters 10.70 through 10.79, as applicable;
 2. ~~The applicant has failed to comply with a final court order or administrative action of an investigatory agency finding a violation of applicable federal, state, and local wage and hour laws, including, but no limited to, the Federal Fair Labor Standards Act, the California Labor Code, and any local minimum wage ordinance or prevailing wage requirements. For the purposes of this subsection, a final court order or administrative action is one as to which there is no pending appeal and the time for filing an appeal has passed.~~
 3. The permittee, including a regulated performer or technician, or any other person who is directly engaged in the management and operation of the regulated business has, while the permit is in effect:
 - a. Allowed, committed or been convicted of an act that constitutes a violation of law which rationally and reasonably relates to the conduct of the regulated activity,
 - b. Allowed or committed acts listed in Section 10.70.050(A)(2) to occur at a regulated business, irrespective of adjudication, conviction or acquittal, or
 - c. Allowed a regulated performer or technician with a contagious or communicable disease to perform services under the auspices of the permittee; or
 4. The applicant or permittee had knowingly made a false, misleading, or fraudulent material statement of fact in the permit application or any other document required in connection with the application.
- B. The chief of police or designee shall serve the permittee with a written order stating the reasons for the suspension or revocation. The order may be for a limited period, not to exceed ninety days, or for permanent revocation. The order shall advise the permittee of appeal rights under Section 10.70.070. The chief of police or designee may issue the order without regard to the status of prosecution or finality of a conviction affecting a permittee, so long as the chief of police or designee has determined that sufficient facts exist to justify the suspension. The order shall be effective immediately if personally served, or three calendar days after it has been deposited in the course of regular transmission in the United States Postal Service.
- C. Except as provided under Section 10.70.080(D), immediately upon the order becoming effective, the permittee shall cease all operations under the permit and shall surrender the permit to the chief of police or designee.
- D. In lieu of issuing an order of suspension or revocation, the chief of police or designee may impose conditions of probation for a specified duration not to exceed one year, during which period the permittee shall be subject to the order of suspension or revocation if the chief of police or designee determines those conditions have been violated. If the permittee accepts the order of probation, no appeal shall be allowed under Section 10.70.070. If, however, the permittee objects to the terms of probation, probation shall not be

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allowed, the order of suspension or revocation shall take effect, and appeal rights of the permittee under Section 10.70.070 shall then be applicable.

- E. Only when an appeal is taken to the city council shall the order of suspension or revocation be stayed pending determination by the city council in the manner set forth in Section 10.70.070 of this chapter. The determination of the city council will be final and conclusive and constitute the exhaustion of administrative remedies. A written notice of decision of city council shall be served on the permittee in accordance with Section 10.70.060, and service shall begin the period of limitation for judicial review under Code of Civil Procedure Sections 1094.6 or 1094.8, whichever is applicable.
- F. Police permits issued for an establishment to conduct business regulated under Chapters 10.71 through 10.79 are separate from and independent of any conditional use permit that is required or issued under the provisions of Title 18 of this code. Revocation or suspension of a police permit shall not operate to revoke or suspend a conditional use permit, notwithstanding that the same or similar terms and conditions may be applicable to both permits. Revocation or suspension of a police permit affects only the authority of the establishment to provide or allow a particular form of entertainment or activity at the premises for which the police permit is issued. The establishment may continue to conduct all other business for which it is licensed or allowed by law to conduct, unless separate action is taken to abate the establishment as a public nuisance or to revoke or suspend any other issued permit, including a conditional use permit.

(Ord. 2220 § 1 (part), 2003; Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.090 Posting or exhibiting.

- A. Permits issued to an operator shall be posted in plain view at the main entrance to the premises where the business or activity for which the permit is issued is conducted, and shall remain posted while the permit is in force.
- B. The massage establishment shall comply with the requirements in California Civil Code Section 52.6 related to the posting of information for victims of human trafficking.
- B. ~~Permits-Certificates~~ issued to a regulated performer or technician shall be carried on their person, except that the permit of a regulated performer or technician may instead be posted on the regulated premises together with the permit issued for the regulated business or activity.
- C. It is unlawful and a misdemeanor for any person subject to this chapter or Chapters 10.71 through 10.79 to fail to post or carry an issued permit or certificate as required by this section, or to fail to exhibit an issued permit or certificate upon demand of the chief of police or designee.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.100 Inspection of premises.

- A. Issuance of a police permit is conditional upon the premises regulated under Chapters 10.71 through 10.79 being available for reasonable inspection by the police department, the fire department, the health officer, or city code compliance officials following approval of the application and during the operating hours of the regulated business or activity. Refusal to allow reasonable inspection during operating hours upon demand of an authorized official is grounds for the suspension or revocation of an issued permit, or the denial of an

application for a permit. No application shall be granted if the premises do not meet applicable requirements of law or ordinance.

- B. If necessary or appropriate, the official may obtain an inspection warrant after inspection has been denied. Inspection pursuant to an issued inspection warrant does not mitigate or exonerate the suspension or revocation of the permit.
- C. The county health officer is authorized to charge inspection fees established within the applicable fee schedule of the county of San Diego or the National City fee schedule.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.110 Duration.

Unless provided otherwise in Chapters 10.71 through 10.79, permits issued pursuant to this chapter remain valid until revoked, surrendered, or abandoned.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.120 Transfer of permit.

It is unlawful to transfer a permit from one person to another. It is unlawful to use a permit at another location except with the written approval of the chief of police or designee. An application for transfer of permit to another location shall be in writing and accompanied by a processing fee established in the National City fee schedule. The application for transfer shall contain the same information required for an initial application for a permit. Any transfer of a permit in violation of this Section 10.70.120 is void and shall confer no rights upon the transferee nor create any obligation upon the city to honor the transfer or to afford notification or appeal rights under Sections 10.70.060 or 10.70.070 to either the transferor or the transferee.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.130 Transition provisions.

- A. A business lawfully conducting business in the city as of the effective date of this Chapter 10.70 that is to be regulated by Chapters 10.71 through 10.79 will be issued an appropriate police permit by the chief of police or designee without further payment of fees, provided the business or activity was otherwise in compliance with the regulatory and fiscal provisions of the municipal code in effect immediately prior to the enactment of this ordinance. Permits issued pursuant to this Section 10.70.130(A) shall thereafter be fully subject to the provisions of Chapter 10.70 and Chapters 10.71 through 10.79, as applicable, regarding administration, operation and licensing.
- B. An existing business that does not meet the compliance standards for permit issuance under Section 10.70.130(A), and all new businesses commencing operations shall comply with Chapter 10.70 and Chapters 10.71 through 10.79, as applicable.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.140 Notice of changes.

- A. Permittees of establishments governed by Chapter 10.79 shall only allow persons certified by the California Massage Therapy Council to provide massages at, or in association with the establishment, and shall immediately notify the chief of police or designee, in writing, of any change to the list provided pursuant to Section 10.70.030(B)(14).

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.150 Public nuisance.

Each regulated business or any business that is required to be regulated that operates in violation of Chapter 10.70 through 10.79, as may be applicable, is a public nuisance and may be enjoined civilly or administratively. In addition, and to the extent not expressly provided elsewhere in this code, it is unlawful and a misdemeanor to maintain a public nuisance.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.160 Violations and regulatory enforcement.

Violation of any of the mandatory requirements or prohibitions contained in Chapters 10.70 through 10.79 are misdemeanors and constitute grounds for suspension or revocation of an issued permit, except that any requirement or prohibition designated as "regulatory only" will be treated only as grounds for suspension or revocation of an issued permit, and criminal prosecution may not occur for that violation.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.170 Severability.

The city council declares that the invalidity of any section or portion of Chapters 10.70 through 10.79 shall not affect the validity of any other remaining section or portion; that the council would have adopted each of those remaining portions, notwithstanding any later declared invalidity. Any provision determined invalid under the preceding sentence may either be severed or, if it can be judicially interpreted in a way that could harmonize it with the remaining provisions, then it may be so judicially interpreted and, as interpreted, be applied so as to give full purpose, meaning, and effect to the remaining provisions.

(Ord. 2204 § 5 (part), 2002)

(Ord. No. 2019-2454, § 6, 1-22-2019)

Chapter 10.79 MASSAGE ESTABLISHMENTS¹

10.79.010 Title and administration.

This chapter may be referred to as the National City massage establishment ordinance. Issuance and administration of permits is governed by Chapter 10.70.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.020 Purpose and intent.

It is the purpose and intent of this chapter to provide for the orderly regulation of a massage establishment business in the city in order to protect the public health, safety, and welfare by promulgating minimum standards for the establishment and operation of those businesses and to prevent the facilitation of prostitution.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.030 Definitions.

Whenever in this chapter the following words or phrases are used, they shall mean as follows:

- A. "California Massage Therapy Council (CAMTC)" means the state organized non-profit organization created to regulate the massage industry set forth in Chapter 10.5 of Division 2 of the California Business and Professions Code, commencing with section 4600.
- B. "CAMTC certificate" means a current and valid certificate issued by the California Massage Therapy Council to a massage technician.
- C. "Compensation" means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.
- D. "Employee" means any person hired by a massage establishment who renders any service for the business/owner in exchange for any form of compensation from the business, including independent contractors.
- ~~E.~~ "Massage" means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances or with or without such supplementary aids as rubbing alcohol, liniments, antiseptic, oils, powder, creams, lotions, ointments, or other preparations commonly used in this practice.
- ~~F.~~ "Massage establishment" means an establishment where massage is administered.
- ~~G.~~ "Massage practitioner," "massage technician," or "technician" means any person, including a holistic health practitioner as defined in subsection QH, who gives or administers to another person of the same or opposite gender, for any form of consideration, a "massage" as defined in this chapter.

¹Editor's note(s)—Ord. No. 2019-2454, § 6, adopted Jan. 22, 2019, amended Ch. 10.79 in its entirety to read as herein set out. Former Ch. 10.79, §§ 10.79.010—10.79.110, pertained to similar subject matter, and derived from Ord. 2204 § 8 (part), 2002; Ord. 2220 § 4, 2003).

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- ~~FH.~~ "Massage establishment operator" or "operator" means any person, including a holistic health practitioner as defined in subsection ~~OH~~, who operates an establishment to give or administer to another person of the same or opposite gender, for any form of consideration, a "massage" as defined in this chapter. This includes any person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the daily operation, conduct, or activities of a massage establishment.
- ~~GI.~~ "Massage practitioner certification" means a certification issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code.
- ~~J.~~ "Patron" means any individual that provides financial support to the massage establishment and receives or waiting to receive massage therapy services.
- ~~HK.~~ "Permit" under this chapter means an annual permit to operate a massage establishment as required by this code.
- ~~L.~~ "Sexually suggestive advertising" means advertising matter that depicts any portion of the human body or includes language in the text of such advertising that would reasonably suggest to prospective clients that any services is available other than those services listed are as an available service as described in compliance with the provisions of this chapter.
- ~~M.~~ "Sole Proprietorship" means a massage establishment where the owner owns one hundred percent of the business and has one or no other employees or independent contractors.
- ~~N.~~ The term "specified anatomical areas" means any of the following areas of the human body: pubic region, human genitals, perineum, anal region, and the areas of the female breasts that include the areola and the nipple.
- ~~Q.~~ "Holistic health practitioner" means a non-medical or other health care therapist who uses acupuncture (excluding "acupuncture") or a massage specialty and therapeutic approach in caring for clients, and who is not licensed by the state of California.
- ~~P.~~ "Visitor" means any individual not retained or employed by the massage establishment and not receiving or waiting to receive massage therapy services, but excluding law enforcement personnel or government officials performing governmental business.
- ~~Q.~~ "Working directly under the supervision" means that the person is an employee of the licensed person, is working at the same location as the licensed person, has his or her work supervised by the licensed person, and that the licensed person is present when the employee is performing massage. This exemption shall not apply if the business performs massage on persons for whom the licensed person does not provide professional services.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.040 Massage operator permit required.

- A. It is unlawful for any person to operate a massage establishment in or upon any premises within the city without first obtaining the permit from the Department of Public Safety as required by this chapter and Chapter 10.70, except as exempted by Section 10.79.170.
- B. A massage establishment police regulated permit required by this chapter and Chapter 10.70 shall be valid for one year, coinciding with the city business license effective and expiration dates. Permit renewal shall be made by the applicant within thirty days prior to the expiration of the permit. If an application for renewal of a permit and all required information is not timely received and the permit expires, no right or privilege to continue the massage establishment governed by Chapter 10.79 shall exist.

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- C. It is unlawful for the operator, owner, or other responsible person, of a massage establishment to employ or otherwise allow a person to perform massage for compensation on the premises, unless that person has a who does not have a valid massage practitioner certification issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code or CAMTC certificate and unless that person is identified as an authorized massage practitioner on the permit issued pursuant to this chapter.
 - D. The owner or operator of a massage establishment shall submit a revised list with the information specified in Section 10.70.030.B.15 to the police department within five business days upon any change to the list.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.050 Massage technician's certification required.

- A. It is unlawful for any person to perform services as a massage technician without a valid massage practitioner certification issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code.
- B. A massage practitioner certification does not authorize the operation of a massage establishment. Any person or massage technician who desires to operate a massage establishment must apply separately to the city for a permit and a business license.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.060 Minimum facilities required.

No permit to conduct a massage establishment shall be granted unless an inspection by the chief of police or designee and the county health officer and the fire and building officials demonstrates that the proposed establishment does or will comply with each of the following minimum requirements:

- A. A recognizable and legible sign is posted at the main entrance identifying the premises as a massage establishment;
- B. Minimum lighting of at least forty watts is provided in accordance with the building code of the city;
- C. Minimum ventilation is provided in accordance with the building code of the city;
- D. Equipment approved by the health department for disinfecting and sterilizing instruments used in performing acts of massage is provided;
- E. Hot and cold running water is provided at all times;
- F. Closed cabinets are provided, which cabinets shall be utilized for the storage of clean linen;
- G. Adequate dressing, locker, and toilet facilities are provided for patrons. A minimum of one dressing room containing a separate locker for each person to be served, which locker shall be capable of being locked, and a minimum of one toilet and one wash basin shall be provided by every massage establishment;
- H. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wooden surfaces must be painted with a washable, mold resistant paint. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms must be thoroughly cleaned and disinfected each day the business is in operation with a disinfectant approved by the

health department. Bathtubs must be thoroughly cleaned and disinfected after each use with a disinfectant approved by the health department; and

- I. A minimum of one separate wash basin is provided in each massage establishment for the use of employees of any such establishment, which basin shall provide soap or detergent and hot and cold running water at all times, and is located within or as close as practicable to the area devoted to the performing of massage services. In addition, there must be provided at each washbasin sanitary towels placed in permanently installed dispensers.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.070 Massage establishment operating requirements.

No person, association, partnership, or corporation may engage in, conduct or carry on, or permit to be engaged in, conducted or carried on the operation of a massage establishment unless each and all of the following requirements are met:

- A. Massage operations may only be carried on, and the premises may only be open, between the hours of 10:00 a.m. and 10:00 p.m.
- B. A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The service shall be described in readily understandable language in English and may also then be described in any other language. No owner, operator, responsible managing employee, manager, permittee, or licensee in charge of or in control of the massage establishment shall permit and no massage technician shall offer or perform, any service other than those posted.
- ~~C.~~ It is unlawful for a massage establishment to operate under any name or conduct business under any designation not specified in the massage establishment permit issued pursuant to this chapter.
- ~~D.~~ The massage establishment business tax license, massage establishment permit, and a copy of the ~~permit~~ CAMTC certification of each and every massage technician employed by or working in the establishment must be displayed in an open and conspicuous public place on the premises.
- ~~E.~~ Hot and cold running water under pressure shall be provided to all washbasins, bathtubs, showers, and similar equipment. Each washbasin shall be provided with soap or detergent and sanitary towels placed in permanently installed dispensers. A trash receptacle shall be provided in each toilet room.
- ~~F.~~ Clean and sanitary towels, sheets and linens shall be provided for each patron receiving massage services. No common use of towels or linens shall be permitted, and reuse is prohibited unless they have been first laundered. Heavy white paper may be substituted for sheets, provided that such paper is used once for each person and then discarded into a sanitary receptacle.
- ~~G.~~ Disinfecting agents and sterilizing equipment shall be available for any instruments used in performing any massage. Instruments will be disinfected or sterilized after each use.
- ~~H.~~ Pads used on massage tables shall be covered in a workmanlike manner with durable, washable plastic or other waterproof material.
- ~~I.~~ Each establishment shall provide to all patrons clean, sanitary, and opaque coverings capable of covering the patron's specified anatomical areas. Such coverings shall be used for one customer only and shall not be reused without first being cleaned.
- ~~J.~~ No owner, operator, responsible managing employee, manager, or permittee in charge of or in control of a massage establishment shall permit a massage to be given unless the patron's specified anatomical areas are covered during the entire massage by the covering referred to in subsection (~~H.~~).

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- ~~JK.~~ With the exception of bathrooms or dressing rooms not open to public view, no person or persons shall be permitted in any area within the massage establishment which is used in common by the patrons or which can be viewed by patrons from such an area, unless the specified anatomical areas of all persons within that area are fully covered.
- ~~KL.~~ It is unlawful for an owner, operator, responsible managing employee, manager, permittee in charge of or in control of a massage establishment to permit any massage technician to perform any service or task while in the presence of a patron or to be on the premises of a massage establishment during its hours of operation unless the massage technician is dressed in a manner that does not violate paragraph (10) of subdivision (a) of Section 4609 of the California Business and Professions Code.
- ~~LM.~~ Any person performing services as a massage technician must wear a visible CAMTC identification card and have a copy of their driver's license or any other photo identification card issued by a state or federal agency readily available for inspection by city or county investigating officials.
- ~~MN.~~ An operator or owner must be on the business premises at all times during hours of operation of the business.
- ~~NO.~~ For each massage service provided, every massage establishment shall keep a complete and legible written record of the following information: the date and hour that service was provided; the service received; the name or initials of the employee entering the information; and the name of the massage practitioner administering the service. Such records shall be open to inspection and copying by the chief of police or designee, or may be used by any massage practitioner or operator as records of service provided, but may not be provided to other parties by the massage practitioner or operator unless otherwise required by law. Such records shall be retained on the premises of the massage establishment for a period of two years and be immediately available for inspection during business hours.
- ~~OP.~~ Persons of a massage establishment outside the waiting area shall be a patron, employee, or the massage establishment owner or operator.
- ~~Q.~~ Visitors shall only be permitted in the waiting area; however, the following exceptions may apply:
- ~~a.~~ The parent or guardian of a patron who is a minor may be present in the massage therapy room with that minor;
- ~~b.~~ The minor of a patron may be present in the massage therapy room with the patron when necessary for the supervision of the minor; or
- ~~c.~~ The conservator, aid, or other caretaker of a patron who is elderly or disabled may be present in the massage therapy room with that elderly or disabled person.
- ~~R.~~ No massage establishment located in a building or structure with exterior windows fronting a public street, highway, walkway or parking area shall block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the premises.
- ~~PS.~~ All signs shall be in accordance with the current ordinances of the City of National City.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.080 Massage establishment—Prohibited conduct.

In addition to the conduct/activities, items, and/or substances prohibited by federal and state laws, the following conduct is prohibited at massage establishments:

- ~~A.~~ A.—The sale, service, or consumption of alcohol or marijuana; and

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- B. Operate under any name or conduct business under any designation not specified in the massage establishment permit issued pursuant to this chapter; and
 - C. The employment of a person lacking state certification as a receptionist without prior notification and approval by the license authority; and
 - A-D. Continue to operate following the sale or transfer of any interest in the massage establishment to a person who was not identified as an owner in the massage establishment permit application; and
 - E. Audio and/or video recording of, or monitoring of, the patron, the massage therapist, or the massage therapy, without the prior written consent of the patron; and
 - F. Residing in or at the massage establishment by any person including but not limited to the operator, owner, responsible person, or employee of the massage establishment; and
 - G. Advertising or marketing illegal activity, advertising or marketing sexually suggestive -content related to massage therapy, ~~or advertising or marketing sexual content~~ in the promotion of the massage establishment; and
 - H. Use or possession of adult-oriented merchandise, including "sex toys" and/or condoms, in any part of a massage establishment; and
 - I. Any sexual activity at a massage establishment; and
 - J. No owner, operator, responsible managing employee, manager, permittee, or licensee in charge of or in control of a massage establishment shall permit any person to massage or intentionally touch the specified anatomical areas of another person while performing the services of a massage technician.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.090 Off-premises massage—Prohibited.

It is unlawful for any person to engage in, conduct, carry on, or permit to be engaged in, conducted or carried on, massage, for any form of consideration, in any hotel room, motel room, guesthouse or other place of public accommodation. This section shall not be construed to prohibit:

- A. Maintaining a licensed massage establishment upon the premises of a place of public accommodation; or
- B. The holder of a massage practitioner certification issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code from giving or administering massages within hospitals, convalescent centers, rest homes, offices, or the private home of a patron. For the purposes of this section, offices and private homes shall not include hotel rooms, motel rooms, or guest houses.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.100 Existing businesses—Regulated.

The provisions of this chapter shall be applicable to all persons and businesses described in this chapter whether the described activities in the chapter were established before or after the effective date of this chapter. Any existing massage technician who performs massage and any massage establishment that employs or utilizes persons to perform massage within the jurisdiction of the city, that operates with a valid and current business license issued by the city and all other necessary approvals issued prior to the effective date of any amended regulations in this chapter or Chapter 10.70, and that operates in compliance with all local, state and federal laws,

ordinances, rules and regulations, must be in full compliance with Chapters 10.70 and 10.79 no later than sixty days following the effective date of any new regulations.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.110 Exemptions.

This chapter shall not apply to:

- A. Physicians, surgeons, chiropractors, osteopaths, nurses, psychiatrists, psychologists, acupuncturists, physical therapists, family counselors or other health care professionals who are duly licensed to practice their respective professions by the state of California or who are permitted to practice temporarily under the auspices of an associate or establishment duly licensed by the state of California, pursuant to the Business and Professions Code and persons working directly under the supervision of such licensed persons;
- ~~B. — Nurses and other health care professionals who are registered or licensed under the laws of this state and administer a massage in the normal course of professional health care duties;~~
- ~~BC.~~ A trainer of any duly constituted amateur, semi-professional, or professional athlete or athletic team athletic team or athlete who administers massage in the normal course of training duties to the team or athlete and trainers in conjunction with a specific athletic event such as an outdoor road or bike race;
- D. Barbers, beauticians, cosmetologists, ~~and~~ estheticians, and other persons duly licensed to practice any healing art duly licensed under the laws of the state who administer a massage incidental to a barber or beauty service provided in the normal performance of their profession, and who perform massages only on the neck, face, and/or scalp of the customers. This exemption shall apply only if massage is provided from a fixed and permanent location of business;
- E. Therapeutic massage administered in or under the auspices of any health facility, hospital, nursing homes, sanitariums, or other establishment duly-licensed under California statutes in which the above-described persons practice their respective professions, provided the massages are given only by exempt individuals or persons acting under their supervision;
- F. Any bona fide personal fitness training centers, gymnasiums, athletic facilities or health clubs which offers tennis, racquetball, swimming or other sport activities and possesses a sauna or steam room. Massage shall only be administered to members of the athletic club by persons who are exempt under this section.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.120 Inspection by officials.

The city, county, or any investigating official shall have the right to enter the premises of the massage establishment from time to time during regular business hours to conduct reasonable inspections to enforce compliance with this chapter, Chapter 10.70, and with building, fire, electrical, plumbing, and/or state and local health and safety regulations.

No person shall refuse to permit or interfere with a lawful inspection of the massage establishment by city or county investigating officials.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.130 Unlawful massage establishment or operation.

Any massage establishment operated, conducted or maintained contrary to the provisions of this chapter, Chapter 10.70 and/or state and federal laws shall be and the same is hereby declared to be unlawful and a public nuisance. The city attorney may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for the abatement, removal, or enjoinder thereof, in any manner provided by law, including as provided in Chapter 10.70.

(Ord. No. 2019-2454, § 8, 1-22-2019)

ORDINANCE NO. 2023-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AMENDING CHAPTER 10.70 POLICE REGULATED BUSINESS REGULATIONS OF THE NATIONAL CITY MUNICIPAL CODE

WHEREAS, the City of National City (the “City”), pursuant to police powers delegated to it by the California Constitution, has the authority to enact or amend laws that promote the public health, safety, and general welfare of its residence; and

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; and

WHEREAS, the National City Police Department has requested that the National City Municipal Code (NCMC) Section 10.70 Police Regulated Business Regulations be reviewed and updated; and

WHEREAS, the National City Police Department submitted Section 10.70 of the NCMC to the California Massage Therapy Council (CAMTC) for review to which they have provided several recommended corrections, additions and modifications to aid the City of National City Police Department, Code Enforcement, and the City Attorney’s Office with enforcement, regulation, and removal of illicit massage parlors in the City of National City; 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 November 7, 2023, and at said public hearing, all persons interested were given the opportunity to appear and be heard before the City Council.

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. Section 10.70 Police Regulated Business Regulations is hereby amended to read as follows in Attachment A attached to this Ordinance.

Section 3. 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.

Section 5. The City Clerk shall certify to the adoption of this Ordinance and shall publish in accordance with the law.

INTRODUCED at Regular Meeting of the City Council of the City of National City, held on this November 7, 2023

PASSED and ADOPTED this day of , 2023.

Ron Morrison,
Mayor

ATTEST:

Shelley Chapel, MMC
City Clerk

APPROVED AS TO FORM:

Barry J. Schultz,
City Attorney

Chapter 10.70 POLICE REGULATED BUSINESS REGULATIONS

10.70.010 Purpose and intent—Permit required.

- A. It is the purpose and intent of the city council to establish procedures for permit issuance and regulation of certain businesses and activities as police regulated for the protection of the public health, safety, and welfare. Businesses identified in this Division X (Chapters 10.70 through 10.79) have a higher degree of potential for one or more types of illicit activity - prostitution, disorderly conduct, gambling, fraudulent practices, or the concealment or facilitation of transfers of stolen property. Therefore, regulation of the operations of these establishments is appropriate to protect legitimate business practice and the public health, safety and welfare.
- B. A business, activity or a performer or technician which is identified in Chapters 10.71 through 10.79 is designated a "regulated business," "regulated activity," "regulated performer" or "regulated technician," as the case may be, and the specific regulations applicable to their conduct are set out in Chapters 10.71 through 10.79. The procedures set out in this Chapter 10.70 shall uniformly govern the administration and appeals process regarding the issuance, denial, suspension, or revocation of any permit required to operate as a regulated business or activity or as a regulated performer or technician pursuant to Chapters 10.71 through 10.79.
- C. The issuance of a permit pursuant to this chapter does not excuse a regulated business, activity, performer, or technician from complying with any other revenue or regulatory requirement of this code or state law. A separate permit shall be required for each type of activity regulated by Chapters 10.71 through 10.79, unless otherwise provided. The issuance of a certificate or permit under other provisions of this code does not excuse compliance with or create a defense to any violation of the requirements of this chapter or Chapters 10.71 through 10.79, as applicable, or any other provisions of law or ordinance, including conditional use permits required under Title 18.
- D. It is unlawful for any person to operate a business or activity or perform or practice as a performer or technician regulated by this chapter and Chapters 10.71 through 10.79, as applicable, without a valid permit issued by the chief of police or designee, or to operate, perform or practice while the permit is suspended or revoked. Each day a violation of this section exists constitutes a separate misdemeanor.

(Ord. 2220 § 1(part), 2003; Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.020 Definitions.

For purposes of Chapters 10.70 through 10.79, the following definitions shall apply:

- A. "Person" means and includes a natural person, a partnership, joint venture or a corporation.
- B. "Operator" means any person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the daily operation, conduct or activities of the regulated business or activity.
- C. "Owner" means any person or entity having an ownership interest in the establishment.
- D. "Responsible person" means any person who is an owner, operator, or manager, and includes any employee or agent in apparent charge of the premises for which the application is made or required or a permit is issued.

- E. "Permit" means a permit issued by or under the authority of the chief of police or designee that authorizes activity regulated under Chapters 10.71 through 10.79.
- F. "Permittee" means an owner to whom a permit issued by or under the authority of the chief of police or designee that authorizes activity regulated under Chapters 10.71 and 10.79.
- G. "Applicant" means the natural person(s) who complete and sign an application pursuant to this chapter.

(Ord. 2220 § 1 (part), 2003: Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.030 Applications.

- A. Any person required to obtain a permit pursuant to Chapters 10.71 through 10.79 shall file a written application with the chief of police or designee on a city-approved form, and pay the non-refundable fee set forth in the National City fee schedule, to recoup all investigative costs. The applicant shall provide proof of payment of any regulatory fees imposed by the state of California or county of San Diego contemporaneously with the filing. Written application forms prepared by the chief of police or designee may require the applicant to be photographed, finger printed and to provide, in addition to the information listed below, such other information as is reasonably necessary to carry out the purposes of this chapter. The application form shall be approved as to form by the city attorney. For massage establishments, the application shall be completed and signed by the owner of the proposed massage establishment, if a sole proprietorship; one general partner, if the owner is a partnership; or two officers, if the owner is a corporation.
- B. An applicant for a permit shall submit the following information:
 - 1. The full name of the business, including the name under which the business will be conducted;
 - 2. The address where the business is to be conducted;
 - 3. The applicant's full, true name, and any other names used;
 - 4. The applicant's date of birth;
 - 5. The applicant's present residential address and telephone number;
 - 6. The previous addresses of the applicant for the three years immediately prior to the date of the application and the dates of residence at each;
 - 7. Applicant's height, weight, color of eyes and hair;
 - 8. Three recent portrait photographs at least two inches by two inches taken within the preceding six months, which accurately depict the current appearance of the applicant;
 - 9. The applicant's driver's license and/or identification card issued by a state or federal governmental agency, or other photographic identification bearing a bona-fide seal of a foreign government;
 - 10. If the owner is a corporation, domestic stock, domestic non-profit, qualified foreign corporation, limited liability company, general partnership, or limited partnership, the application shall include the following:
 - a. A business entity status report issued by the California Secretary of State;
 - b. Organizational documents for the business entity including but not limited to a copy of the fictitious name statement and/or articles of incorporation;

- c. Full name, date of birth, residential address, and business address for each officer and director;
 - d. The name, date of birth, and residence addresses of the responsible employee(s) to be principally in charge of the day-to-day operations of the establishment.
 - e. The full name of the owner, including any DBAs.
11. The tax identification number for the business;
 12. The name, address, email address, and telephone number of the real property owner where the business will be operated, and a copy of the lease or rental agreement, if applicable;
 13. The business license and permit history of the applicant, including whether the applicant when previously operating in this or another city or state under a certificate, license or permit, has had that certificate, license or permit suspended or revoked, the reason therefore, and the business activity or occupation subsequent to the suspension or revocation;
 14. For massage establishment businesses regulated under Chapter 10.79, a copy of the massage practitioner certificate issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code for each owner who has been issued a certificate, or a statement that such a certificate has not been issued or has been previously denied or revoked by the California Massage Therapy Council with information regarding the reason therefore;
 15. For massage establishment businesses regulated under Chapter 10.79, a list of all persons who will administer massage, including but not limited to employees and independent contractors. Such list shall include the full true name and any other names used, date of birth, residence address and copy of their driver's license or any other photo identification card issued by a state or federal agency, and a copy of the valid massage practitioner certificate issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code;
 16. For massage establishment businesses regulated under Chapter 10.79, all services must be described on the application for the permit;
 17. Business, occupation, or employment history of the applicant for the three years immediately preceding the date of the application;
 18. A list, broken down for each applicant, each responsible employee(s) to be principally in charge of the day-to-day operations of the establishment, and all partners if a partnership, or all officers and directors if a corporation, of all criminal convictions, including pleas of nolo contendere, within the preceding five years, including those dismissed or expunged pursuant to Penal Code section 1203.4, but excluding minor traffic violations, and the date and place of each such conviction, as well as a full explanation of the circumstances;
 19. A complete set of fingerprints taken for each owner if a sole proprietorship, or each natural person, including the owner and operator or person to be principally in charge of the day-to-day operations of the establishment; unless in the case of massage establishment businesses, they hold a valid massage practitioner certificate issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code;

20. A signed statement authorizing the city, through its officers, agents, and employees, to conduct a background check of the applicant, owners(s), and natural persons to be principally in charge of the day-to-day operations to seek information and conduct an investigation into the truthfulness of the statements set forth in the application and to ensure continual compliance with all applicable provisions of the law;
21. A signed acknowledgment that the owner(s) shall be responsible for the conduct of all employees or independent contractors working on the premises of the business and acknowledging that failure to comply with the provisions of this chapter or any local, state or federal law and, for massage establishment businesses regulated under Chapter 10.79, failure to comply with California Business and Professions Code section 4600 et seq., may result in the suspension, revocation, or denial of the permit;
22. An acknowledgement that the applicant consents to periodic inspection of the regulated premises or activity, and that revocation of the permit may occur for any unjustified refusal to allow the same;
23. An acknowledgement that the applicant has received a copy of Chapter 10.70 and any applicable chapter from Chapters 10.71 through 10.79 which regulate the business or activity of the applicant; and
24. A signed statement by the applicant certifying under penalty of perjury that all information in the application is true and correct, and acknowledging that failure to be truthful may result in denial of the application.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.040 Investigation.

The chief of police or designee, upon receipt of a written application for a permit and payment of the necessary fees shall promptly conduct an appropriate investigation to determine whether a permit should be issued in accordance with the provisions of this chapter. The chief of police or designee shall consider any relevant factual material relating to such application.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.050 Permit issuance or denial.

- A. Issuance. The chief of police or designee may deny a permit application, based upon investigation and substantial evidence, if he or she finds one or more of any of the following:
 1. That the operation or the premises of the activity, as proposed by the applicant, would violate any applicable laws, including but not limited to the city's fire, building, zoning and health regulations; or
 2. That the applicant, any other person who will be directly engaged in the management and operation of the regulated business or activity, or an applicant who is to participate or perform services as a regulated technician or performer:
 - a. Has been convicted in any court of competent jurisdiction by a final judgment of any misdemeanor or felony, within the five years preceding the date of application, which rationally and reasonably relates to the conduct of the regulated activity; or
 - b. Has allowed acts to occur in any business operations for the preceding five years which would violate those sections of the Penal Code listed in Section

- 10.70.050A.2.d, or any provision of this chapter or Chapter 10.79, irrespective of a conviction or acquittal; or
- c. Has had a permit to operate a business that is or would be regulated pursuant to Chapters 10.70 through 10.79 suspended or revoked in any jurisdiction, within the preceding five years; or
 - d. Within the five years immediately preceding the date of the filing of the application, has been convicted in a court of competent jurisdiction of any of the following offenses:
 - (1) An offense that requires registration under California Penal Code Section 290; or
 - (2) An offense which is a violation of Sections 311 through 311.7, 313.1, 314, 315, 316, 318 or 647(a), 647(b), 647(d), 647(h), 653.23 or 290 of the California Penal Code; or
 - (3) An offense that is a reduction from any offense listed in Section 10.70.050A.2.d. (1) or (2) to some other offense under the Penal Code which would not require registration, pursuant to a plea of guilty negotiated prior to trial; or
 - (4) Any misdemeanor or felony involving theft of property; or
 3. That the applicant has made any false, misleading or fraudulent material statement of fact in the permit application, or any other related document required by the city in connection with the application; or
 4. The applicant has not complied with the provisions of this chapter and Chapter 10.79; or
 5. The applicant has had a massage establishment permit or other similar license or permit denied, suspended or revoked for cause by any governmental agency; or the applicant has any massage practitioner certification denied, suspended or revoked by the California Massage Therapy Council.
 5. For establishments regulated by Chapter 10.79, the applicant proposes to locate the massage establishment in the same building as a massage establishment that has surrendered its permit or had its permit revoked within five years of the application date because a person engaged in any criminal conduct and/or violation of this chapter or Chapter 10.79 while on the premises of the former massage establishment; or
 6. That the application is incomplete and the required information or documents were not submitted within twenty days of a request for the information or documents.
- B. Timeliness and Conditional Issuance of Permit. Upon receipt of a properly completed application, the chief of police or designee shall either approve or deny the application within thirty days. Failure to take action on a permit application within thirty days shall not result in an automatic approval. If the chief of police or designee is awaiting investigation results from another governmental agency within those thirty days, the chief of police or designee shall issue a revocable conditional permit on the thirtieth day if a local records check fails to disclose any disqualifying information and the operation would otherwise be in compliance with all other applicable laws and regulations; except that a revocable conditional permit shall not be issued to an escort or massage technician or operator until it affirmatively appears that there is no disqualifying information, in order to avoid the potential for physical harm to

a potential patron pending final action. Any revocable conditional permit shall be revoked if further investigation discloses the existence of a disqualifying factor under this Section 10.70.050.

- C. An applicant whose application is denied based on subsection (A)(1) through (A)(5) of this section is not eligible to reapply for five years after notice of denial. An applicant whose application is denied for failure to comply with subsection (A)(6) is not eligible to reapply for one hundred eighty days after notice of denial.
- D. Permits must be exercised within one year of issuance or shall be deemed abandoned.
- E. A permit is deemed abandoned if the establishment which has exercised its permit ceases operations covered by the permit for one hundred eighty days.
- F. A permit issued pursuant to this chapter shall not be operative until and unless all other required local, state, or federal licenses and permits have been obtained.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.060 Notice of decision.

Upon taking final action to issue or deny a permit application, or to suspend or revoke a permit under Section 10.70.080, the chief of police or designee shall give written notice of decision and the reasons to the applicant or permittee and to any other person requesting such notice. The notice of decision shall inform the applicant or permittee of the right to appeal under Section 10.70.070 and the time limits prescribed for such review. The chief of police or designee shall file a proof of service with the city clerk establishing the method and date of service. The issuance of the notice of decision shall begin the running of any period of limitation for judicial review under Section 10.70.070 as follows:

- A. Three calendar days after mailing a notice of decision to the address shown on the application by both first class mail, postage prepaid with return address clearly marked, and by certified mail, return receipt requested. Receipt of either by the addressee shall constitute service of notice. Actual receipt, however, shall not be a pre-requisite to the running of any period of limitation.
- B. Immediately upon personal service or personal delivery of the notice of decision to the applicant or permittee.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.070 Appeal.

- A. Any applicant or permittee aggrieved by the decision of the chief of police or designee regarding the issuance, conditional issuance, suspension, revocation or denial of a permit, shall have a right to request a hearing to appeal or contest the decision pursuant to Section 1.42.020.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.080 Suspension and revocation.

- A. The chief of police or designee may suspend or revoke any permit issued under the provisions of this chapter if he or she finds that:

1. The operation conducted by the permittee violates or has violated any applicable laws, including but not limited to the city's building, zoning and health regulations and Chapters 10.70 through 10.79, as applicable;
 2. The applicant has failed to comply with a final court order or administrative action of an investigatory agency finding a violation of applicable federal, state, and local wage and hour laws, including, but no limited to, the Federal Fair Labor Standards Act, the California Labor Code, and any local minimum wage ordinance or prevailing wage requirements. For the purposes of this subsection, a final court order or administrative action is one as to which there is no pending appeal and the time for filing an appeal has passed.
 3. The permittee, including a regulated performer or technician, or any other person who is directly engaged in the management and operation of the regulated business has, while the permit is in effect:
 - a. Allowed, committed or been convicted of an act that constitutes a violation of law which rationally and reasonably relates to the conduct of the regulated activity,
 - b. Allowed or committed acts listed in Section 10.70.050(A)(2) to occur at a regulated business, irrespective of adjudication, conviction or acquittal, or
 - c. Allowed a regulated performer or technician with a contagious or communicable disease to perform services under the auspices of the permittee; or
 4. The applicant or permittee had knowingly made a false, misleading, or fraudulent material statement of fact in the permit application or any other document required in connection with the application.
- B. The chief of police or designee shall serve the permittee with a written order stating the reasons for the suspension or revocation. The order may be for a limited period, not to exceed ninety days, or for permanent revocation. The order shall advise the permittee of appeal rights under Section 10.70.070. The chief of police or designee may issue the order without regard to the status of prosecution or finality of a conviction affecting a permittee, so long as the chief of police or designee has determined that sufficient facts exist to justify the suspension. The order shall be effective immediately if personally served, or three calendar days after it has been deposited in the course of regular transmission in the United States Postal Service.
- C. Except as provided under Section 10.70.080(D), immediately upon the order becoming effective, the permittee shall cease all operations under the permit and shall surrender the permit to the chief of police or designee.
- D. In lieu of issuing an order of suspension or revocation, the chief of police or designee may impose conditions of probation for a specified duration not to exceed one year, during which period the permittee shall be subject to the order of suspension or revocation if the chief of police or designee determines those conditions have been violated. If the permittee accepts the order of probation, no appeal shall be allowed under Section 10.70.070. If, however, the permittee objects to the terms of probation, probation shall not be allowed, the order of suspension or revocation shall take effect, and appeal rights of the permittee under Section 10.70.070 shall then be applicable.
- E. Only when an appeal is taken to the city council shall the order of suspension or revocation be stayed pending determination by the city council in the manner set forth in Section 10.70.070 of this chapter. The determination of the city council will be final and conclusive and constitute the exhaustion of administrative remedies. A written notice of decision of city

council shall be served on the permittee in accordance with Section 10.70.060, and service shall begin the period of limitation for judicial review under Code of Civil Procedure Sections 1094.6 or 1094.8, whichever is applicable.

- F. Police permits issued for an establishment to conduct business regulated under Chapters 10.71 through 10.79 are separate from and independent of any conditional use permit that is required or issued under the provisions of Title 18 of this code. Revocation or suspension of a police permit shall not operate to revoke or suspend a conditional use permit, notwithstanding that the same or similar terms and conditions may be applicable to both permits. Revocation or suspension of a police permit affects only the authority of the establishment to provide or allow a particular form of entertainment or activity at the premises for which the police permit is issued. The establishment may continue to conduct all other business for which it is licensed or allowed by law to conduct, unless separate action is taken to abate the establishment as a public nuisance or to revoke or suspend any other issued permit, including a conditional use permit.

(Ord. 2220 § 1 (part), 2003: Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.090 Posting or exhibiting.

- A. Permits issued to an operator shall be posted in plain view at the main entrance to the premises where the business or activity for which the permit is issued is conducted, and shall remain posted while the permit is in force.
- B. The massage establishment shall comply with the requirements in California Civil Code Section 52.6 related to the posting of information for victims of human trafficking.
- B. Certificates issued to a regulated performer or technician shall be carried on their person, except that the permit of a regulated performer or technician may instead be posted on the regulated premises together with the permit issued for the regulated business or activity.
- C. It is unlawful and a misdemeanor for any person subject to this chapter or Chapters 10.71 through 10.79 to fail to post or carry an issued permit or certificate as required by this section, or to fail to exhibit an issued permit or certificate upon demand of the chief of police or designee.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.100 Inspection of premises.

- A. Issuance of a police permit is conditional upon the premises regulated under Chapters 10.71 through 10.79 being available for reasonable inspection by the police department, the fire department, the health officer, or city code compliance officials following approval of the application and during the operating hours of the regulated business or activity. Refusal to allow reasonable inspection during operating hours upon demand of an authorized official is grounds for the suspension or revocation of an issued permit, or the denial of an application for a permit. No application shall be granted if the premises do not meet applicable requirements of law or ordinance.
- B. If necessary or appropriate, the official may obtain an inspection warrant after inspection has been denied. Inspection pursuant to an issued inspection warrant does not mitigate or exonerate the suspension or revocation of the permit.

C. The county health officer is authorized to charge inspection fees established within the applicable fee schedule of the county of San Diego or the National City fee schedule.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.110 Duration.

Unless provided otherwise in Chapters 10.71 through 10.79, permits issued pursuant to this chapter remain valid until revoked, surrendered, or abandoned.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.120 Transfer of permit.

It is unlawful to transfer a permit from one person to another. It is unlawful to use a permit at another location except with the written approval of the chief of police or designee. An application for transfer of permit to another location shall be in writing and accompanied by a processing fee established in the National City fee schedule. The application for transfer shall contain the same information required for an initial application for a permit. Any transfer of a permit in violation of this Section 10.70.120 is void and shall confer no rights upon the transferee nor create any obligation upon the city to honor the transfer or to afford notification or appeal rights under Sections 10.70.060 or 10.70.070 to either the transferor or the transferee.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.130 Transition provisions.

A. A business lawfully conducting business in the city as of the effective date of this Chapter 10.70 that is to be regulated by Chapters 10.71 through 10.79 will be issued an appropriate police permit by the chief of police or designee without further payment of fees, provided the business or activity was otherwise in compliance with the regulatory and fiscal provisions of the municipal code in effect immediately prior to the enactment of this ordinance. Permits issued pursuant to this Section 10.70.130(A) shall thereafter be fully subject to the provisions of Chapter 10.70 and Chapters 10.71 through 10.79, as applicable, regarding administration, operation and licensing.

B. An existing business that does not meet the compliance standards for permit issuance under Section 10.70.130(A), and all new businesses commencing operations shall comply with Chapter 10.70 and Chapters 10.71 through 10.79, as applicable.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.140 Notice of changes.

- A. Permittees of establishments governed by Chapter 10.79 shall only allow persons certified by the California Massage Therapy Council to provide massages at, or in association with the establishment, and shall immediately notify the chief of police or designee, in writing, of any change to the list provided pursuant to Section 10.70.030(B)(14).

(Ord. No. 2019-2454, § 6, 1-22-2019)

10.70.150 Public nuisance.

Each regulated business or any business that is required to be regulated that operates in violation of Chapter 10.70 through 10.79, as may be applicable, is a public nuisance and may be enjoined civilly or administratively. In addition, and to the extent not expressly provided elsewhere in this code, it is unlawful and a misdemeanor to maintain a public nuisance.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)10.70.160 Violations and regulatory enforcement.

Violation of any of the mandatory requirements or prohibitions contained in Chapters 10.70 through 10.79 are misdemeanors and constitute grounds for suspension or revocation of an issued permit, except that any requirement or prohibition designated as "regulatory only" will be treated only as grounds for suspension or revocation of an issued permit, and criminal prosecution may not occur for that violation.

(Ord. 2204 § 5 (part), 2002) (Ord. No. 2019-2454, § 6, 1-22-2019)10.70.170 Severability.

The City Council declares that the invalidity of any section or portion of Chapters 10.70 through 10.79 shall not affect the validity of any other remaining section or portion; that the council would have adopted each of those remaining portions, notwithstanding any later declared invalidity. Any provision determined invalid under the preceding sentence may either be severed or, if it can be judicially interpreted in a way that could harmonize it with the remaining provisions, then it may be so judicially interpreted and, as interpreted, be applied so as to give full purpose, meaning, and effect to the remaining provisions.

(Ord. 2204 § 5 (part), 2002)(Ord. No. 2019-2454, § 6, 1-22-2019)

ORDINANCE NO. 2023-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AMENDING CHAPTER 10.79 MASSAGE ESTABLISHMENTS REGULATIONS OF THE NATIONAL CITY MUNICIPAL CODE

WHEREAS, the City of National City (the “City”), pursuant to police powers delegated to it by the California Constitution, has the authority to enact or amend laws that promote the public health, safety, and general welfare of its residence; and

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 (NCMC); and

WHEREAS, the National City Police Department submitted Section 10.79 Massage Establishments of the NCMC to the California Massage Therapy Council (CAMTC) for review to which they have provided several recommended corrections, additions and modifications to aid the City of National City Police Department, Code Enforcement, and the City Attorney’s Office with enforcement, regulation, and removal of illicit massage parlors in the City of National City; 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 November 7, 2023, and at said public hearing, all persons interested were given the opportunity to appear and be heard before the City Council.

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. Section 10.79 Massage Establishments is hereby amended to read as follows in Attachment A attached to this Ordinance.

Section 3. 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.

Section 4. The City Clerk shall certify to the adoption of this Ordinance and shall publish in accordance with the law.

INTRODUCED at Regular Meeting of the City Council of the City of National City, held on this November 7, 2023

PASSED and ADOPTED this day of , 2023.

Ron Morrison,
Mayor

ATTEST:

Shelley Chapel, MMC
City Clerk

APPROVED AS TO FORM:

Barry J. Schultz,
City Attorney

Chapter 10.79 MASSAGE ESTABLISHMENTS¹

10.79.010 Title and administration.

This chapter may be referred to as the National City massage establishment ordinance. Issuance and administration of permits is governed by Chapter 10.70.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.020 Purpose and intent.

It is the purpose and intent of this chapter to provide for the orderly regulation of a massage establishment business in the city in order to protect the public health, safety, and welfare by promulgating minimum standards for the establishment and operation of those businesses and to prevent the facilitation of prostitution.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.030 Definitions.

Whenever in this chapter the following words or phrases are used, they shall mean as follows:

- A. "California Massage Therapy Council (CAMTC)" means the state organized non-profit organization created to regulate the massage industry set forth in Chapter 10.5 of Division 2 of the California Business and Professions Code, commencing with section 4600.
- B. "CAMTC certificate" means a current and valid certificate issued by the California Massage Therapy Council to a massage technician.
- C. "Compensation" means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.
- D. "Employee" means any person hired by a massage establishment who renders any service for the business/owner in exchange for any form of compensation from the business, including independent contractors.
- E. "Massage" means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances or with or without such supplementary aids as rubbing alcohol, liniments, antiseptic, oils, powder, creams, lotions, ointments, or other preparations commonly used in this practice.
- F. "Massage establishment" means an establishment where massage is administered.
- G. "Massage practitioner," "massage technician," or "technician" means any person, including a holistic health practitioner as defined in subsection O, who gives or

¹Editor's note(s)—Ord. No. 2019-2454, § 6, adopted Jan. 22, 2019, amended Ch. 10.79 in its entirety to read as herein set out. Former Ch. 10.79, §§ 10.79.010—10.79.110, pertained to similar subject matter, and derived from Ord. 2204 § 8 (part), 2002; Ord. 2220 § 4, 2003).

administers to another person of the same or opposite gender, for any form of consideration, a "massage" as defined in this chapter.

- H. "Massage establishment operator" or "operator" means any person, including a holistic health practitioner as defined in subsection O, who operates an establishment to give or administer to another person of the same or opposite gender, for any form of consideration, a "massage" as defined in this chapter. This includes any person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the daily operation, conduct, or activities of a massage establishment.
- I. "Massage practitioner certification" means a certification issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code.
- J. "Patron" means any individual that provides financial support to a massage establishment and receives or waits to receive massage therapy services.
- K. "Permit" under this chapter means an annual permit to operate a massage establishment as required by this code.
- L. "Sexually suggestive advertising" means advertising that depicts any portion of the human body or includes language that would reasonably suggest to prospective clients that services other than those services listed are available.
- M. "Sole Proprietorship" means a massage establishment where the owner owns one hundred percent of the business and has one or no other employees or independent contractors.
- N. The term "specified anatomical areas" means any of the following areas of the human body: pubic region, human genitals, perineum, anal region, and the areas of the female breasts that include the areola and the nipple.
- O. "Holistic health practitioner" means a non-medical or other health care therapist who uses acupressure (excluding "acupuncture") or a massage specialty and therapeutic approach in caring for clients, and who is not licensed by the state of California.
- P. "Visitor" means any individual not retained or employed by the massage establishment and not receiving or waiting to receive massage therapy services, but excluding law enforcement personnel or government officials performing governmental business.
- Q. "Working directly under the supervision" means that the person is an employee of the licensed person, is working at the same location as the licensed person, has his or her work supervised by the licensed person, and that the licensed person is present when the employee is performing massage.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.040 Massage operator permit required.

- A. It is unlawful for any person to operate a massage establishment in or upon any premises within the city without first obtaining the permit from the Department of Public Safety as required by this chapter and Chapter 10.70, except as exempted by Section 10.79.170.
- B. A massage establishment police regulated permit required by this chapter and Chapter 10.70 shall be valid for one year, coinciding with the city business license effective and expiration dates. Permit renewal shall be made by the applicant within thirty days prior to the expiration of the permit. If an application for renewal of a permit and all required information is not timely

received and the permit expires, no right or privilege to continue the massage establishment governed by Chapter 10.79 shall exist.

- C. It is unlawful for the operator, owner, or other responsible person, of a massage establishment to employ or otherwise allow a person to perform massage for compensation on the premises, unless that person has a valid massage practitioner certification issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code and unless that person is identified as an authorized massage practitioner on the permit issued pursuant to this chapter.
- D. The owner or operator of a massage establishment shall submit a revised list with the information specified in Section 10.70.030.B.15 to the police department within five business days upon any change to the list.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.050 Massage technician's certification required.

- A. It is unlawful for any person to perform services as a massage technician without a valid massage practitioner certification issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code.
- B. A massage practitioner certification does not authorize the operation of a massage establishment. Any person or massage technician who desires to operate a massage establishment must apply separately to the city for a permit and a business license.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.060 Minimum facilities required.

No permit to conduct a massage establishment shall be granted unless an inspection by the chief of police or designee and the county health officer and the fire and building officials demonstrates that the proposed establishment does or will comply with each of the following minimum requirements:

- A. A recognizable and legible sign is posted at the main entrance identifying the premises as a massage establishment;
- B. Minimum lighting of at least forty watts is provided in accordance with the building code of the city;
- C. Minimum ventilation is provided in accordance with the building code of the city;
- D. Equipment approved by the health department for disinfecting and sterilizing instruments used in performing acts of massage is provided;
- E. Hot and cold running water is provided at all times;
- F. Closed cabinets are provided, which cabinets shall be utilized for the storage of clean linen;
- G. Adequate dressing, locker, and toilet facilities are provided for patrons. A minimum of one dressing room containing a separate locker for each person to be served, which locker shall be capable of being locked, and a minimum of one toilet and one wash basin shall be provided by every massage establishment;

- H. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wooden surfaces must be painted with a washable, mold resistant paint. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms must be thoroughly cleaned and disinfected each day the business is in operation with a disinfectant approved by the health department. Bathtubs must be thoroughly cleaned and disinfected after each use with a disinfectant approved by the health department; and
- I. A minimum of one separate wash basin is provided in each massage establishment for the use of employees of any such establishment, which basin shall provide soap or detergent and hot and cold running water at all times, and is located within or as close as practicable to the area devoted to the performing of massage services. In addition, there must be provided at each washbasin sanitary towels placed in permanently installed dispensers.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.070 Massage establishment operating requirements.

No person, association, partnership, or corporation may engage in, conduct or carry on, or permit to be engaged in, conducted or carried on the operation of a massage establishment unless each and all of the following requirements are met:

- A. Massage operations may only be carried on, and the premises may only be open, between the hours of 10:00 a.m. and 10:00 p.m.
- B. A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The service shall be described in readily understandable language in English and may also then be described in any other language. No owner, operator, responsible managing employee, manager, permittee, or licensee in charge of or in control of the massage establishment shall permit and no massage technician shall offer or perform, any service other than those posted.
- C. It is unlawful for a massage establishment to operate under any name or conduct business under any designation not specified in the massage establishment permit issued pursuant to this chapter.
- D. The massage establishment business tax license, massage establishment permit, and a copy of the CAMTC certification of each and every massage technician employed by or working in the establishment must be displayed in an open and conspicuous public place on the premises.
- E. Hot and cold running water under pressure shall be provided to all washbasins, bathtubs, showers, and similar equipment. Each washbasin shall be provided with soap or detergent and sanitary towels placed in permanently installed dispensers. A trash receptacle shall be provided in each toilet room.
- F. Clean and sanitary towels, sheets and linens shall be provided for each patron receiving massage services. No common use of towels or linens shall be permitted, and reuse is prohibited unless they have been first laundered. Heavy white paper may be substituted for sheets, provided that such paper is used once for each person and then discarded into a sanitary receptacle.

- G. Disinfecting agents and sterilizing equipment shall be available for any instruments used in performing any massage. Instruments will be disinfected or sterilized after each use.
- H. Pads used on massage tables shall be covered in a workmanlike manner with durable, washable plastic or other waterproof material.
- I. Each establishment shall provide to all patrons clean, sanitary, and opaque coverings capable of covering the patron's specified anatomical areas. Such coverings shall be used for one customer only and shall not be reused without first being cleaned.
- J. No owner, operator, responsible managing employee, manager, or permittee in charge of or in control of a massage establishment shall permit a massage to be given unless the patron's specified anatomical areas are covered during the entire massage by the covering referred to in subsection (I).
- K. With the exception of bathrooms or dressing rooms not open to public view, no person or persons shall be permitted in any area within the massage establishment which is used in common by the patrons or which can be viewed by patrons from such an area, unless the specified anatomical areas of all persons within that area are fully covered.
- L. It is unlawful for an owner, operator, responsible managing employee, manager, permittee in charge of or in control of a massage establishment to permit any massage technician to perform any service or task while in the presence of a patron or to be on the premises of a massage establishment during its hours of operation unless the massage technician is dressed in a manner that does not violate paragraph (10) of subdivision (a) of Section 4609 of the California Business and Professions Code.
- M. Any person performing services as a massage technician must wear a visible CAMTC identification card and have a copy of their driver's license or any other photo identification card issued by a state or federal agency readily available for inspection by city or county investigating officials.
- N. An operator or owner must be on the business premises at all times during hours of operation of the business.
- O. For each massage service provided, every massage establishment shall keep a complete and legible written record of the following information: the date and hour that service was provided; the service received; the name or initials of the employee entering the information; and the name of the massage practitioner administering the service. Such records shall be open to inspection and copying by the chief of police or designee, or may be used by any massage practitioner or operator as records of service provided, but may not be provided to other parties by the massage practitioner or operator unless otherwise required by law. Such records shall be retained on the premises of the massage establishment for a period of two years and be immediately available for inspection during business hours.
- P. Persons of a massage establishment outside the waiting area shall be a patron, employee, or the massage establishment owner or operator.
- Q. Visitors shall only be permitted in the waiting area; however, the following exceptions may apply:
 - a. The parent or guardian of a patron who is a minor may be present in the massage therapy room with that minor;
 - b. The minor of a patron may be present in the massage therapy room with the patron when necessary for the supervision of the minor; or

- c. The conservator, aid, or other caretaker of a patron who is elderly or disabled may be present in the massage therapy room with that elderly or disabled person.
 - R. No massage establishment located in a building or structure with exterior windows fronting a public street, highway, walkway or parking area shall block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the premises.
 - S. All signs shall be in accordance with the current ordinances of the City of National City.
- (Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.080 Massage establishment—Prohibited conduct.

In addition to the conduct/activities, items, and/or substances prohibited by federal and state laws, the following conduct is prohibited at massage establishments:

- A. The sale, service, or consumption of alcohol or marijuana; and
- B. Operate under any name or conduct business under any designation not specified in the massage establishment permit issued pursuant to this chapter; and
- C. The employment of a person lacking state certification as a receptionist without prior notification and approval by the license authority; and
- D. Continue to operate following the sale or transfer of any interest in the massage establishment to a person who was not identified as an owner in the massage establishment permit application; and
- E. Audio and/or video recording of, or monitoring of, the patron, the massage therapist, or the massage therapy, without the prior written consent of the patron; and
- F. Residing in or at the massage establishment by any person including but not limited to the operator, owner, responsible person, or employee of the massage establishment; and
- G. Advertising or marketing illegal activity, advertising or marketing sexually suggestive content related to massage therapy or in the promotion of the massage establishment; and
- H. Use or possession of adult-oriented merchandise, including "sex toys" and/or condoms, in any part of a massage establishment; and
- I. Any sexual activity at a massage establishment; and
- J. No owner, operator, responsible managing employee, manager, permittee, or licensee in charge of or in control of a massage establishment shall permit any person to massage or intentionally touch the specified anatomical areas of another person while performing the services of a massage technician.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.090 Off-premises massage—Prohibited.

It is unlawful for any person to engage in, conduct, carry on, or permit to be engaged in, conducted or carried on, massage, for any form of consideration, in any hotel room, motel room, guesthouse or other place of public accommodation. This section shall not be construed to prohibit:

- A. Maintaining a licensed massage establishment upon the premises of a place of public accommodation; or
- B. The holder of a massage practitioner certification issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code from giving or administering massages within hospitals, convalescent centers, rest homes, offices, or the private home of a patron. For the purposes of this section, offices and private homes shall not include hotel rooms, motel rooms, or guest houses.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.100 Existing businesses—Regulated.

The provisions of this chapter shall be applicable to all persons and businesses described in this chapter whether the described activities in the chapter were established before or after the effective date of this chapter. Any existing massage technician who performs massage and any massage establishment that employs or utilizes persons to perform massage within the jurisdiction of the city, that operates with a valid and current business license issued by the city and all other necessary approvals issued prior to the effective date of any amended regulations in this chapter or Chapter 10.70, and that operates in compliance with all local, state and federal laws, ordinances, rules and regulations, must be in full compliance with Chapters 10.70 and 10.79 no later than sixty days following the effective date of any new regulations.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.110 Exemptions.

This chapter shall not apply to:

- A. Physicians, surgeons, chiropractors, osteopaths, nurses, psychiatrists, psychologists, acupuncturists, physical therapists, family counselors or other health care professionals who are duly licensed to practice their respective professions by the state of California or who are permitted to practice temporarily under the auspices of an associate or establishment duly licensed by the state of California, pursuant to the Business and Professions Code and persons working directly under the supervision of such licensed persons;
- B. A trainer of any duly constituted amateur, semi-professional, or professional athlete or athletic team who administers massage in the normal course of training duties to the team or athlete and trainers in conjunction with a specific athletic event such as an outdoor road or bike race;
- D. Barbers, beauticians, cosmetologists, estheticians, and other persons duly licensed to practice any healing art under the laws of the state who administer a massage incidental to a barber or beauty service provided in the normal performance of their profession, and who perform massages only on the neck, face, and/or scalp of the customers. This

exemption shall apply only if massage is provided from a fixed and permanent location of business;

- E. Therapeutic massage administered in or under the auspices of any health facility, hospital, nursing homes, sanitariums, or other establishment duly licensed under California statutes in which the above-described persons practice their respective professions, provided the massages are given only by exempt individuals or persons acting under their supervision;
- F. Any bona fide personal fitness training centers, gymnasiums, athletic facilities or health clubs which offers tennis, racquetball, swimming or other sport activities and possesses a sauna or steam room. Massage shall only be administered to members of the athletic club by persons who are exempt under this section.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.120 Inspection by officials.

The city, county, or any investigating official shall have the right to enter the premises of the massage establishment from time to time during regular business hours to conduct reasonable inspections to enforce compliance with this chapter, Chapter 10.70, and with building, fire, electrical, plumbing, and/or state and local health and safety regulations.

No person shall refuse to permit or interfere with a lawful inspection of the massage establishment by city or county investigating officials.

(Ord. No. 2019-2454, § 8, 1-22-2019)

10.79.130 Unlawful massage establishment or operation.

Any massage establishment operated, conducted or maintained contrary to the provisions of this chapter, Chapter 10.70 and/or state and federal laws shall be and the same is hereby declared to be unlawful and a public nuisance. The city attorney may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for the abatement, removal, or enjoinder thereof, in any manner provided by law, including as provided in Chapter 10.70.

(Ord. No. 2019-2454, § 8, 1-22-2019)



AGENDA REPORT

Department: City Attorney's Office
Prepared by: Barry J. Schultz, City Attorney
Shelley Chapel, City Clerk
Meeting Date: Tuesday, November 21, 2023
Approved by: Ben Martinez, Interim City Manager

SUBJECT:

Presentation on Transitioning from a General Law City to a Charter City

RECOMMENDATION:

Provide staff direction by choosing one of the following options:

1. Take No Action and Table the Issue.
2. Direct Staff to take Steps to Prepare the City Council to Draft a City Charter.
3. Direct Staff to Initiate the Process for Soliciting Applications for Appointment to a City Charter Advisory Committee.
4. Direct Staff to take the Necessary Steps to Prepare for the Election of a 15-Member Charter Commission.

BOARD/COMMISSION/COMMITTEE PRIOR ACTION:

Not Applicable.

EXPLANATION:

Introduction

California has two types of Cities, General Law Cities and Charter Cities. The City of National City is currently a General Law City. The authority of a General Law City is derived from the general powers granted to it by the State Legislature and from the police powers granted to it by the State Constitution.

The City Council has requested a presentation on transitioning from a General Law City to a Charter City. A "Charter" City's power is not defined or limited by the State's General Laws. Instead, a Charter City's powers are defined by the City's own charter subject only to the limitations of the State Constitution (see California, Constitution Article, XI, § 3(a)). This provides a Charter City with more local control over "Municipal Affairs". The City Charter is, in effect, the City's Constitution and supersedes all other inconsistent laws with respect to "Municipal Affairs."

Charter City – Municipal Affairs

The State Constitution does not define the term "Municipal Affairs." For this reason, the courts have been left with the responsibility of determining what constitutes a "Municipal Affair." Unfortunately, no "bright line" tests have been developed by the courts for making this determination. Instead, the courts have made this determination on a case-by-case basis based upon the particular governmental function at issue.

The following are generally accepted as “Municipal Affairs:”

- a. Processes and Procedures associated with City Contracts
- b. Prevailing Wage Standards for City-Funded Projects (projects using State or Federal Funding are still subject to State Prevailing Wage laws).
- c. Municipal Election matters (though the California Voting Rights Act still applies to Charter Cities)
- d. Procedures for Initiative, Referendum, and Recall
- e. Procedures for Adopting Ordinances
- f. Compensation of City Officers and Employees
- g. Financing Public Improvements
- h. Making Charitable Gifts of Public Funds for Public Purposes
- i. Term limits for Council members
- j. Land Use and Zoning Decisions

Should the Council wish to consider developing a City Charter the above topics could be considered for inclusion in the Charter.

A Charter may be as short, as long, as focused or as comprehensive as the City and its voters desire. The Charter, for example, could address just a single topic, such as Prevailing Wages. While a City Charter may make significant changes to City Governance and Law, it need not do so; most cities that have adopted Charters have largely refrained from significantly changing their form of governance or the applicability of most areas of State Law.

The following items are considered matters of Statewide concern and in these areas, State Legislation preempts a City Charter or Local Legislation:

- a. Regulation of Traffic Control
- b. Government Claims Act Procedures for Claims Seeking Money or Damages from the Local Government
- c. Ralph M. Brown Act – Open Meeting Laws
- d. Meyers-Miliias-Brown Act – Local Government Labor Relations
- e. CEQA – California Environmental Quality Act
- f. Public Records Act
- g. Licensing of members for a trade or profession
- h. Eminent Domain and Annexations
- i. Conflict of Interest Laws

It is important to note that the general trend over time has been to narrow the distinction between Charter Cities and General Law Cities. The State Legislature has deemed more matters as matters of Statewide concern. Most recently, the State Legislature has deemed Housing to be a matter of Statewide concern and preempted Local Land Use Control over local housing issues. This preemption applies to both Charter Cities and General Law Cities. The result is that today there are fewer advantages to Charter Cities as opposed to General Law Cities.

Exhibit A to the Agenda Report is a League of California Cities Comparison of Charter City and General Law City Powers.

Municipal Elections

One of the areas the City Council specifically wanted to consider was changing the current local election system to include primaries. Many Charter Cities provide for Primary Elections, including National City's neighbors San Diego and Chula Vista and such others as Sacramento and Stockton.

There are other options to consider as referenced in the Special Counsel's memo provided at the October 17th City Council Meeting, and attached to this report as Exhibit B. These include a Two-Round Runoff Elections System and a Rank Choice Voting Election System.

a) Two Round Runoff Election System (aka Run-off Voting or Second Ballot)

A Primary Election System and a Two-Round Runoff Election System are similar in that they both contemplate two (2) rounds of voting. However, unlike a Primary, a Two-Round Runoff Election System may result in an election in the first round of voting. In such elections, if no candidate receives over 50 percent of the vote, a second election is held between the top two recipients of votes. This is the system used for county officials.

Charter Cities do have the authority to organize two-round runoff elections per Elections Code Section 15450. Los Angeles, San Diego, San Jose, and Sacramento use this system.

b) Plurality is a type of Run-Off Voting when a Candidate receives the plurality of votes not the majority.

c) Ranked Choice Voting Elections System

Ranked Choice Voting, also called "Instant-Runoff Voting," allows voters to rank candidates in order of preference. In a Ranked-Choice Election, a Candidate must win the majority of the votes to win.

Ranked Choice Voting works as follows; all first choices are counted, if there is one candidate with 50% or more they win just like any other election. If not, the candidate with the fewest votes is eliminated, and voters who picked that candidate as first choice will have their first choice votes count for the second choice. This process continues until a candidate earns a majority and is declared the winner.

San Francisco, Oakland, Berkeley, Albany, Eureka, Palm Desert, and San Leandro use this system.

Charter Preparation Process

There are three different methods to adopt a Charter: 1) City Council drafts the Charter; 2) City Council appoints a Charter Advisory Committee to draft a Charter for Council approval prior to placing on the ballot; 3) City Council calls for the Election of a 15-Member Charter Commission to draft the Charter; or 4) A Citizens' Initiative is filed Calling for the Election of a Charter Commission to draft the Charter¹.

Method 1: Council Preparation of Charter

The City Council, after taking public input, would direct Staff to take the steps to prepare the City Council to draft the Charter for placement on the November 2024 ballot.

Method 2: Formation of Charter Advisory Committee

The Council would appoint a Charter Advisory Committee to draft a recommended Charter for consideration by the City Council. Under this approach, the City Council retains the ultimate authority to decide whether to place the draft Charter Measure on the ballot or not.

Formation of a City Council-appointed Charter Advisory Committee would allow for more diverse perspectives to provide input on the preparation of the Charter. Additionally, a Charter Advisory Committee would also create a set of community leaders able to take the leadership role in advocating support for the Charter with the voters leading up to the election².

Method 3: Formation of a 15-member Charter Commission.

This option requires that an item be placed on the November 2024 election to determine whether a 15-Member Charter Commission should be formed and if yes, consider electing members of the Charter Commission.

The Commission would act independently of the Council; the Charter it develops is automatically placed on the next available General Election Ballot (earliest could be November 2026).

This process takes significantly longer than the appointment of a Charter Advisory Committee, since two-elections would be required: the first election would establish the 15-member Charter Commission, if the voters approved the formation of the Commission. The second election would propose the actual Charter. The 15 Candidates receiving the highest number of votes are "elected" from the pool of Candidates. Once formed, the Commission has two-years to complete and submit a proposed Charter to the City's voters (Council approval is not required to place the Charter on the ballot). The Charter is filed with the City Clerk and placed on the ballot. The Commission is abolished at the end of the two-years (November 2026).

NOTE: Under any of these options, the proposed Charter cannot become effective until it is approved by a majority vote of the City's electors at a Statewide General, Primary, or other regularly scheduled Municipal Election, and accepted by the Secretary of State.

An existing Charter may be amended or repealed only by a majority vote of the City's voting electorate. (California Constitution Article XI, § 3.) A measure to amend or repeal a Charter may

¹ This option will not be addressed since it is not subject to Council action.

² As a City Measure the City and City Council are limited as public funds may not be used to advocate in favor of the passage or the defeat of any ballot measure, including a proposed charter measure, Informational materials are allowed (copy of the measure and public noticing)

be placed on the ballot by the City Council or upon an initiative petition signed by at least fifteen percent (15%) of the registered voters.

THE LEGAL PROCESS

To place a Charter on the ballot, two (2) Public Hearings must take place following an initial 21-day notice period where the meeting is noticed in three (3) different locations.

- a. During the first Public Hearing, a draft of the Charter would need to be considered by the Council.
- b. Publish Notice for the second Public Hearing 21 days before the next meeting.
- c. The Second Public Hearing is required to take place 30 days after the first hearing.

Following the second Public Hearing, the item may be set for final council deliberation after another 21-day waiting period.

Once this process is completed, the City Clerk can forward the measure regarding the proposed Charter to the San Diego County Registrar of Voters Office (ROV).

The County's deadline for submittal of measures for the November 2024 ballot is likely to be in early August, so if the Council is interested in putting a Charter on the November 2024 ballot and chooses to proceed with the Council or Charter Advisory Committee approach, the timeline would be as follows:

1. City Clerk to Prepare outline of the process and timeline for interviews and appointments.
2. Return to Council with report providing a set of comprehensive instructions, timeline, and bylaws for approval.
3. Once instructions and Bylaws are approved, advertise for applications to serve on a Charter Advisory Committee.
4. Return to Council with the list of Candidates to be interviewed for the Council to approve for the Charter Advisory Committee.
5. Set dates for Public Hearings and Council Meetings to approve the submission of the Charter to voters.

TIMELINE

City Council Creates Charter for Voters (a stricter timeline would be required for the Charter Advisory Committee to include appointment process). To place a Charter on the ballot, two (2) Public Hearings must take place following an initial 21-day notice period where the meeting is noticed in three (3) different locations.

- ❖ December 5, 2023: The City Council gives direction to Staff to begin preparing for the process of the City Council drafting Charter.
- ❖ January 16, 2024: City Attorney and City Clerk return with a report providing a set of comprehensive instructions and legal overview of process and timeline.
- ❖ February 16, 2024: First Public Hearing, a draft of the Charter would need to be considered by the City Council.

- ❖ March 17, 2024: The Second Public Hearing is required to take place 30 days after the First Hearing.
- ❖ April 16, 2024: Following the Second Public Hearing, the item may be set for final City Council deliberation after another 21-day waiting period.
- ❖ May 21, 2024: City Council final deliberation and finalize Charter for Measure on ballot.
- ❖ June 4, 2024: City Council adopts Resolutions Calling For and Consolidating the Election, and Adding Measure to the November Ballot. The City Clerk Prepares Legal Notices, Translations and documents for submittal to the ROV for August Deadline.

Once this process is completed, the City Clerk can forward the measure regarding the proposed Charter to the San Diego County Registrar of Voters (ROV). The County's deadline for the submittal of measures for the November 2024 ballot is the first part of August, if the Council is interested in putting a Charter on the November 2024 ballot the Charter must be approved by the City Council at a Regular Meeting no later than June 18, 2024 to give staff time to prepare for the ballot and submittal to the ROV.

- ❖ November 2024: Charter Measure placed on the ballot for voters.
- ❖ December 2024: Certify Election. If measure does not pass, certify election results and nothing more is done. If measure passes, the City Clerk prepares to send to the Secretary of State for approval.
- ❖ January 2025: Training and Implementation begins for City Council, and City Staff regarding changes in new processes, and procedures, and what it means to be a Charter City.

PROS AND CONS DISCUSSION

There are fewer significant differences now between a General Law City and a Charter City, as changes in State Law have removed some of the areas in which Charter Cities had greater flexibility. However, the benefit of becoming a Charter City is that Charter Cities have supreme authority over "Municipal Affairs," supreme even over conflicting State Laws.

There are several primary advantages of City Charter status:

- The City, through the City Council, would be able to exercise greater local control over Municipal Affairs.
- As to Municipal Elections, the City Council could implement an alternative election system, prescribe longer or shorter filing periods, longer or shorter notices of elections, different nominating procedures, different terms of office, and different procedures for voting by mail or other election procedures. However, the courts have held that at least some portion of the California Voting Rights Act applies to Charter Cities.
- A Charter City's ability to charge different fees or compensation that are provided by State law, coupled with the constitutional authority to regulate the granting of franchises, offers advantages to a Charter City.

- Public Works contracting procedures on city–financed projects could be made more flexible, as could procedures concerning revenue bond financing.
- Financial support could be given to worthwhile organizations or projects affecting the public interest without the restriction of the prohibition against gifts of public funds.
- Initiative, referendum, and recall provisions could be different as to the number of signatures required, requirements as to notice, and other procedures, including election procedures.
- Ordinance adoption procedures could be modified, such as reading by title, period of time between first and second readings, and whether two readings should be held or whether one is sufficient.
- A City Charter can override any statutory limitations placed upon the levy of a business tax and provide a city more choice regarding property transfer taxes.
- A Charter City also has more flexibility in some planning matters. For example, the number of General Plan Amendments per year is not limited.

Although there are no actual legal disadvantages associated with the adoption of a Charter, principal factors should be considered:

- Charters' are not as useful as they used to be with the State adopting so many laws that are of statewide significance, thereby overriding our "Municipal Affair" control
- The time, effort, professional expense, and public funds required to formulate a Charter and hold the required election(s).
- The transition from many years of operation under "General Law" status to "Charter City" status requires some adjustment for staff and the public.
- Increased cost for legal resources needed to conduct "Legal Test" if an issue should arise in an undefined area where Charter and General Law may differ.
- Loss of immediate benefit of new State Legislation on matters of municipal concern unless action is taken by the City Council to adopt it. **CHARTER AMENDMENTS RETURN TO THE VOTERS** – the timing for the next Regular Election could delay a process or an opportunity.
- Transitions to Districts have undermined the need for Primary Elections, which limits the amount of candidates vying for each seat. If only two (2) candidates for a seat, primaries are not helpful.

Adopting a City Charter involves extensive community action, either in support of a measure presented by the people or in response to one proposed by the City Council. This time-consuming process may divide a community even more than District Elections.

On-going costs that will be incurred above a General Law City would incur after the Charter adoption. These included costs associated with the following:

- Training staff on new processes and procedures on what it means to be a Charter City.
- Implementing required procedural changes including adopting ordinances and amending NCMC.
- If public contracting is addressed in the Charter and new bid thresholds are established, contract documents and bid packets will need to be updated.
- Any Financial or accountability procedures will require changes in procedure/policies by the Finance Department.

- Any personnel, civil service, or labor relations changes will require changes to existing processes, procedures, and rules and may require a meet-and-confer process with recognized employee associations.
- Potential Lawsuits arising from exercising Charter powers.
- All Charter Amendments and repeals, including those mandated by changes in the law, require an election.

FINANCIAL STATEMENT:

Staff Costs and City Resources: The City Attorney and City Clerk do not have the actual costs associated with developing a Charter Measure at this time. These costs will depend on the procedure chosen and the scope of the proposed charter. A reasonable estimate would be in the range of \$75,000 to \$100,000.

Cost of Election Process Only: At this time, an estimate has been provided by the Registrar of Voters as a hypothetical example only. The cost will be determined by many considerations such as an election to elect the 15 members of the Charter Commission, the length of the Charter, whether it is added to the ballot by the City Council or by Citizen Initiative. The estimated cost at this time to add an 8-page ballot measure on the November 2024 General Election is \$70,000 to \$100,000 based on the current registered voter count of 27,438.

RELATED CITY COUNCIL 2020-2025 STRATEGIC PLAN GOAL:

Not Applicable

ENVIRONMENTAL REVIEW:

This is not a project under CEQA and is therefore not subject to environmental review.CCR15378; PRC 21065.

PUBLIC NOTIFICATION:

Agenda Report posted within 72 hours of meeting date and time in accordance with Brown Act.

ORDINANCE:

Not Applicable

EXHIBITS:

Exhibit A – California League of Cities Chart

Exhibit B – Special Counsel Opinion previously provided at the October 17, 2023 City Council Meeting.

Exhibit C – PowerPoint Presentation

General Law City v. Charter City

Characteristic	General Law City	Charter City
Ability to Govern Municipal Affairs	Bound by the state's general law, regardless of whether the subject concerns a municipal affair.	Has supreme authority over "municipal affairs." Cal. Const. art. XI, § 5(b).
Form of Government	State law describes the city's form of government. For example, Government Code section 36501 authorizes general law cities be governed by a city council of five members, a city clerk, a city treasurer, a police chief, a fire chief and any subordinate officers or employees as required by law. City electors may adopt ordinance which provides for a different number of council members. Cal. Gov't section 34871. The Government Code also authorizes the "city manager" form of government. Cal. Gov't Code § 34851.	Charter can provide for any form of government including the "strong mayor," and "city manager" forms. See Cal. Const. art. XI, § 5(b); Cal. Gov't Code § 34450 <i>et seq.</i>
Elections Generally	Municipal elections conducted in accordance with the California Elections Code. Cal. Elec. Code §§ 10101 <i>et seq.</i>	Not bound by the California Elections Code. May establish own election dates, rules, and procedures. See Cal. Const. art. XI, § 5(b); Cal. Elec. Code §§ 10101 <i>et seq.</i>
Methods of Elections	Generally holds at-large elections whereby voters vote for any candidate on the ballot. Cities may also choose to elect the city council "by" or "from" districts, so long as the election system has been established by ordinance and approved by the voters. Cal. Gov't Code § 34871. Mayor may be elected by the city council or by vote of the people. Cal. Gov't Code §§ 34902.	May establish procedures for selecting officers. May hold at-large or district elections. See Cal. Const. art. XI, § 5(b).
City Council Member Qualifications	<p>Minimum qualifications are:</p> <ol style="list-style-type: none"> 1. United States citizen 2. At least 18 years old 3. Registered voter 4. Resident of the city at least 15 days prior to the election and throughout his or her term 5. If elected by or from a district, be a resident of the geographical area comprising the district from which he or she is elected. <p>Cal. Elec. Code § 321; Cal. Gov't Code §§ 34882, 36502; 87 Cal. Op. Att'y Gen. 30 (2004).</p>	Can establish own criteria for city office provided it does not violate the U.S. Constitution. Cal. Const. art. XI, § 5(b), 82 Cal. Op. Att'y Gen. 6, 8 (1999).

Characteristic	General Law City	Charter City
Public Funds for Candidate in Municipal Elections	No public officer shall expend and no candidate shall accept public money for the purpose of seeking elected office. Cal. Gov't Code § 85300.	Public financing of election campaigns is lawful. <i>Johnson v. Bradley</i> , 4 Cal. 4th 389 (1992).
Term Limits	May provide for term limits. Cal. Gov't Code § 36502(b).	May provide for term limits. Cal. Const. art. XI, § 5(b); Cal Gov't Code Section 36502 (b).
Vacancies and Termination of Office	An office becomes vacant in several instances including death, resignation, removal for failure to perform official duties, electorate irregularities, absence from meetings without permission, and upon non-residency. Cal. Gov't Code §§ 1770, 36502, 36513.	May establish criteria for vacating and terminating city offices so long as it does not violate the state and federal constitutions. Cal. Const. art. XI, § 5(b).
Council Member Compensation and Expense Reimbursement	Salary-ceiling is set by city population and salary increases set by state law except for compensation established by city electors. See Cal. Gov't Code § 36516. If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. See Cal. Gov't Code §§ 53234 - 53235.	May establish council members' salaries. See Cal. Const. art. XI, § 5(b). If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. See Cal. Gov't Code §§ 53234 - 53235.
Legislative Authority	<p>Ordinances may not be passed within five days of introduction unless they are urgency ordinances. Cal. Gov't Code § 36934.</p> <p>Ordinances may only be passed at a regular meeting, and must be read in full at time of introduction and passage except when, after reading the title, further reading is waived. Cal. Gov't Code § 36934.</p>	May establish procedures for enacting local ordinances. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).
Resolutions	May establish rules regarding the procedures for adopting, amending or repealing resolutions.	May establish procedures for adopting, amending or repealing resolutions. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).
Quorum and Voting Requirements	<p>A majority of the city council constitutes a quorum for transaction of business. Cal. Gov't Code § 36810.</p> <p>All ordinances, resolutions, and orders for the payment of money require a recorded majority vote of the total membership of the city council. Cal. Gov't Code § 36936. Specific legislation requires supermajority votes for certain actions.</p>	May establish own procedures and quorum requirements. However, certain legislation requiring supermajority votes is applicable to charter cities. For example, see California Code of Civil Procedure section 1245.240 requiring a vote of two-thirds of all the members of the governing body unless a greater vote is required by charter.

Characteristic	General Law City	Charter City
<p>Rules Governing Procedure and Decorum</p>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i>.</p>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i>.</p> <p>May provide provisions related to ethics, conflicts, campaign financing and incompatibility of office.</p>
<p>Personnel Matters</p>	<p>May establish standards, requirements and procedures for hiring personnel consistent with Government Code requirements.</p> <p>May have "civil service" system, which includes comprehensive procedures for recruitment, hiring, testing and promotion. See Cal. Gov't Code § 45000 <i>et seq.</i></p> <p>Meyers-Milias-Brown Act applies. Cal. Gov't Code § 3500.</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, § 10(b).</p>	<p>May establish standards, requirements, and procedures, including compensation, terms and conditions of employment for personnel. See Cal. Const. art. XI, § 5(b).</p> <p>Procedures set forth in Meyers-Milias-Brown Act (Cal. Gov't Code § 3500) apply, but note, "[T]here is a clear distinction between the <i>substance</i> of a public employee labor issue and the <i>procedure</i> by which it is resolved. Thus there is no question that 'salaries of local employees of a charter city constitute municipal affairs and are not subject to general laws.'" <i>Voters for Responsible Retirement v. Board of Supervisors</i>, 8 Cal.4th 765, 781 (1994).</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, section 10(b).</p>
<p>Contracting Services</p>	<p>Authority to enter into contracts to carry out necessary functions, including those expressly granted and those implied by necessity. See Cal. Gov't Code § 37103; <i>Carruth v. City of Madera</i>, 233 Cal. App. 2d 688 (1965).</p>	<p>Full authority to contract consistent with charter.</p> <p>May transfer some of its functions to the county including tax collection, assessment collection and sale of property for non-payment of taxes and assessments. Cal. Gov't Code §§ 51330, 51334, 51335.</p>

Characteristic	General Law City	Charter City
<p>Public Contracts</p>	<p>Competitive bidding required for public works contracts over \$5,000. Cal. Pub. Cont. Code § 20162. Such contracts must be awarded to the lowest responsible bidder. Pub. Cont. Code § 20162. If city elects subject itself to uniform construction accounting procedures, less formal procedures may be available for contracts less than \$100,000. See Cal. Pub. Cont. Code §§ 22000, 22032.</p> <p>Contracts for professional services such as private architectural, landscape architectural, engineering, environmental, land surveying, or construction management firms need not be competitively bid, but must be awarded on basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of services. Cal. Gov't Code § 4526.</p>	<p>Not required to comply with bidding statutes provided the city charter or a city ordinance exempts the city from such statutes, and the subject matter of the bid constitutes a municipal affair. Pub. Cont. Code § 1100.7; see <i>R & A Vending Services, Inc. v. City of Los Angeles</i>, 172 Cal. App. 3d 1188 (1985); <i>Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.</i>, 71 Cal. App. 4th 38 (1998).</p>
<p>Payment of Prevailing Wages</p>	<p>In general, prevailing wages must be paid on public works projects over \$1,000. Cal. Lab. Code § 1771. Higher thresholds apply (\$15,000 or \$25,000) if the public entity has adopted a special labor compliance program. See Cal. Labor Code § 1771.5(a)-(c).</p>	<p>Historically, charter cities have not been bound by state law prevailing-wage requirements so long as the project is a municipal affair, and not one funded by state or federal grants. <i>Vial v. City of San Diego</i>, 122 Cal. App. 3d 346, 348 (1981). However, there is a growing trend on the part of the courts and the Legislature to expand the applicability of prevailing wages to charter cities under an analysis that argues that the payment of prevailing wages is a matter of statewide concern. The California Supreme Court currently has before them a case that will provide the opportunity to decide whether prevailing wage is a municipal affair or whether it has become a matter of statewide concern.</p>

Characteristic	General Law City	Charter City
Finance and Taxing Power	<p>May impose the same kinds of taxes and assessment as charter cities. See Cal. Gov't Code § 37100.5.</p> <p>Imposition of taxes and assessments subject to Proposition 218. Cal. Const. art.XIIIC.</p> <p>Examples of common forms used in assessment district financing include:</p> <ul style="list-style-type: none"> • Improvement Act of 1911. Cal. Sts. & High. Code § 22500 <i>et seq.</i>. • Municipal Improvement Act of 1913. See Cal. Sts. & High. Code §§ 10000 <i>et seq.</i>. • Improvement Bond Act of 1915. Cal. Sts. & High. Code §§ 8500 <i>et seq.</i>. • Landscaping and Lighting Act of 1972. Cal. Sts. & High. Code §§ 22500 <i>et seq.</i>. • Benefit Assessment Act of 1982. Cal. Gov't Code §§ 54703 <i>et seq.</i>. <p>May impose business license taxes for regulatory purposes, revenue purposes, or both. See Cal. Gov't Code § 37101.</p> <p>May not impose real property transfer tax. See Cal. Const. art. XIII A, § 4; Cal. Gov't Code § 53725; <i>but see</i> authority to impose documentary transfer taxes under certain circumstances. Cal. Rev. & Tax. Code § 11911(a), (c).</p>	<p>Have the power to tax.</p> <p>Have broader assessment powers than a general law city, as well as taxation power as determined on a case-by case basis.</p> <p>Imposition of taxes and assessments subject to Proposition 218, Cal. Const. art. XIIIC, § 2, and own charter limitations</p> <p>May proceed under a general assessment law, or enact local assessment laws and then elect to proceed under the local law. See <i>J.W. Jones Companies v. City of San Diego</i>, 157 Cal. App. 3d 745 (1984).</p> <p>May impose business license taxes for any purpose unless limited by state or federal constitutions, or city charter. See Cal. Const. art. XI, § 5.</p> <p>May impose real property transfer tax; does not violate either Cal. Const art. XIII A or California Government Code section 53725. See <i>Cohn v. City of Oakland</i>, 223 Cal. App. 3d 261 (1990); <i>Fielder v. City of Los Angeles</i>, 14 Cal. App. 4th 137 (1993).</p>
Streets & Sidewalks	State has preempted entire field of traffic control. Cal. Veh. Code § 21.	State has preempted entire field of traffic control. Cal. Veh. Code § 21.
Penalties & Cost Recovery	May impose fines, penalties and forfeitures, with a fine not exceeding \$1,000. Cal. Gov't Code § 36901.	May enact ordinances providing for various penalties so long as such penalties do not exceed any maximum limits set by the charter. <i>County of Los Angeles v. City of Los Angeles</i> , 219 Cal. App. 2d 838, 844 (1963).

Characteristic	General Law City	Charter City
Public Utilities/Franchises	<p>May establish, purchase, and operate public works to furnish its inhabitants with electric power. See Cal. Const. art. XI, § 9(a); Cal. Gov't Code § 39732; Cal. Pub. Util. Code § 10002.</p> <p>May grant franchises to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city to allow use of city streets for such purposes. The grant of franchises can be done through a bidding process, under the Broughton Act, Cal. Pub. Util. Code §§ 6001-6092, or without a bidding process under the Franchise Act of 1937, Cal. Pub. Util. Code §§ 6201-6302.</p>	<p>May establish, purchase, and operate public works to furnish its inhabitants with electric power. See Cal. Const. art. XI, § 9(a); <i>Cal. Apartment Ass'n v. City of Stockton</i>, 80 Cal. App. 4th 699 (2000).</p> <p>May establish conditions and regulations on the granting of franchises to use city streets to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city.</p> <p>Franchise Act of 1937 is not applicable if charter provides. Cal. Pub. Util. Code § 6205.</p>
Zoning	<p>Zoning ordinances must be consistent with general plan. Cal. Gov't Code § 65860.</p>	<p>Zoning ordinances are not required to be consistent with general plan unless the city has adopted a consistency requirement by charter or ordinance. Cal. Gov't. Code § 65803.</p>

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MEMORANDUM

TO:	Mayor and City Council Barry J. Schultz, City Attorney	FILE NO:	44002.0005
FROM:	Aleks. R. Giragosian, Esq. Ephraim S. Margolin, Esq.	DATE:	May 2, 2023
CC:	Shelley Chapel, City Clerk		
RE:	Authority to Hold Primary Elections		

EXECUTIVE SUMMARY

This memorandum addresses whether a general law city has the legal authority to hold local primary elections for City Council. We conclude it does not. If the City wishes to hold primary elections, it may seek legislation or become a charter city if voters approve a charter.

GENERAL LAW CITIES ARE NOT AUTHORIZED TO HOLD PRIMARY ELECTIONS

A primary election “results in nominations rather than final elections to office.”¹ The purpose of a primary election “is to provide the machinery for the selection of candidates to be voted for in the ensuing general election. ... The election of a candidate to office is not contemplated by that act.”² No general law cities in California hold primary elections for local offices.

¹ *Cummings v. Stanley* (2009) 177 Cal.App.4th 493, 509.

² *McClintock v. Abel* (1937) 21 Cal.App.2d 11, 13.

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The California Constitution provides for charter cities³ and general law cities.⁴ National City is a general law city.

“[I]n contrast to a charter city, a general law city governed by Article XI, section 7, lacks the plenary authority over municipal affairs granted to charter cities by Article XI, section 5, subdivision (a). ... A general law city has only those powers expressly conferred upon it by the Legislature, together with such powers as are necessarily incident to those expressly granted or essential to the declared object and purposes of the municipal corporation. The powers of a general law city are strictly construed, so that any fair, reasonable doubt concerning the exercise of a power is resolved against the corporation.”⁵

The California Constitution is silent as to primary elections for city offices. The only mention of primaries is in Article 2, Section 5 of the California Constitution: “A voter-nomination primary election shall be conducted to select the candidates for congressional and state elective offices in California.”

Nor does the Elections Code authorize primary elections for local offices. Instead, Elections Code section 10220 states: “voters may nominate candidates for election by signing a nomination paper. Each candidate shall be proposed by not less than 20 nor more than 30 voters in a city of 1,000 registered voters or more, ... but only one candidate may be named in any one nomination paper” Since the purpose of a primary election is to nominate candidates for office, the Elections Code provides this nomination process, and general law city powers strictly construed, we conclude the City lacks authority to conduct primary elections.

³ Cal. Const., art. XI, § 5.

⁴ Cal. Const., art. XI, § 7.

⁵ *Cawdrey v. City of Redondo Beach* (1993) 15 Cal.App.4th 1212, 1224, fn. 6 (italics, quotations, and citations omitted).

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OPTIONS TO PURSUE PRIMARY ELECTIONS

a. Legislation

General law cities determine the winning candidate after a single election based on a plurality election system, also known as “winner-take-all” or “first-past-the-post,” which gives victory to the candidate with the most votes, whether or not a majority (50 percent plus one). Elections Code section 15450 states:

A plurality of the votes given at any election shall constitute a choice where not otherwise directed in the California Constitution, provided that it shall be competent in all charters of cities, counties, or cities and counties framed under the authority of the California Constitution to provide the manner in which their respective elective officers may be elected and to prescribe a higher proportion of the vote therefore.

Critics argue a plurality election system has these drawbacks:

- The majority of the electorate may have voted for other candidates;
- Candidates elected with less than a majority may have a weak mandate, reducing their ability to govern; and
- It may encourage insincere voting, where members of the electorate vote with the intention of preventing a candidate from winning, as opposed to voting for the candidate that best represents their preferences.⁶

Some alternatives to the plurality elections system are the primary, two-round runoff, or ranked-choice-voting election systems — all requiring victors to garner a majority of votes cast. Since 2006, many bills have been introduced to authorize general law cities to adopt these alternative election systems, but all either failed passage in the Legislature or were vetoed, including:

- SB 596 (Bowen, 2006),
- AB 1294 (Mullin and Leno, 2007),
- AB 1121 (Davis, 2009),

⁶ Sen. Rules Com., Off. of Sen. Floor Analyses, veto of Sen. Bill No. 1288 (2015–2016 Reg. Sess.), as amended on Aug. 1, 2016.

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- SB 2732 (Eng, 2010),
- SB 1346 (Hancock, 2010),
- SB 1288 (Leno, 2016), and
- SB 212 (Allen, 2019).

Governor Brown and Governor Newsom both justified vetoes, claiming these alternative methods would confuse voters and depress turnout.⁷ Some legislators have even introduced bills, such AB 2808 (O'Donnell, 2022), to prohibit charter cities from instituting rank choice voting for these same reasons. To date, all such legislation has failed.

b. Adopting a City Charter

A city charter provides the City with greater flexibility to control matters deemed to be “municipal affairs.” Article XI, section 5(a) of the California Constitution states:

It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters, they shall be subject to general laws.

City Council elections are municipal affairs. Article XI, section 5, subdivision (b), provides:

It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for: ... (3) conduct of city elections and (4) plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed,

⁷ Sen. Rules Com., Off. of Sen. Floor Analyses, veto of Sen. Bill No. 1288 (2015–2016 Reg. Sess.), as amended on Aug. 1, 2016; Sen. Rules Com., Off. of Sen. Floor Analyses, vote of Sen. Bill No. 212 (2019–2020 Reg. Sess.), as amended on Sept. 5, 2019.

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“California courts have already determined that the conduct of municipal elections is a municipal affair and subject to municipal control.”⁸

State law may preempt charter cities’ authority to control local elections if a statewide interest (like nondiscrimination) is shown. But courts must first engage in a four-step evaluation process to ascertain whether the subject matter is of statewide concern.⁹ To date, a court has not applied the four-step evaluation process to the issue of whether primary, two-round runoff, or ranked choice voting elections systems are preempted under state law.¹⁰

i. Primary Elections

Many charter cities provide for primary elections, including National City’s neighbors San Diego and Chula Vista and such others as Sacramento and Stockton.

ii. Two-round Runoff Elections System

A primary election system and a two-round runoff election system are similar in that they both contemplate two rounds of voting. However, unlike a primary, a two-round runoff elections system may result in an election in the first round of voting. In such elections, if no candidate receives over 50 percent of the vote, a second election is held between the top two recipients of votes. This is the system used for county officials.

While general law cities cannot organize a traditional two-round runoff election, they can hold a runoff to resolve a tie vote.¹¹ In contrast, charter cities do have the authority to organize two-round runoff elections per Elections Code section 15450. Los Angeles, San Diego, San Jose, and Sacramento use this system.

⁸ *Mackey v. Thiel* (1968) 262 Cal.App.3d 362, 365; *Socialist Party v. Uhl* (1909) 155 Cal. 776, 788 (election procedures to nominate city officers).

⁹ *Yumori-Kaku v. City of Santa Clara* (2020) 59 Cal.App.5th 385, 430.

¹⁰ *Edelstein v. City and County of San Francisco* (2002) 29 Cal.4th 164, 173 (issue mentioned, but not adjudicated).

¹¹ Elec. Code, § 15651, subd. (b).

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iii. Ranked Choice Voting Elections System

Ranked choice voting, also called “instant-runoff voting,” asks voters to rank candidates for each office and the ballots are counted in consecutive rounds. Unlike primaries and two-round runoff election systems, ranked choice voting only contemplates one election.

In this system, no voter may vote twice, and no vote is counted twice. For single winner elections, in the first round, every ballot counts as a vote towards the candidate indicated by the highest ranking on that ballot. After every round, if a candidate receives a majority of votes from the continuing ballots, that candidate is declared elected. If no candidate receives a majority, the candidate receiving the smallest number of votes is eliminated, and every ballot counting towards that candidate will be advanced to the next-ranked continuing candidate on the ballot.

For an election to elect two or more candidates to office, a minimum threshold of votes necessary to be elected will be determined according to a specified formula. All ballots are counted and each ballot is allocated as a vote to the candidate receiving the highest ranking. Each candidate that receives the minimum threshold of votes necessary to be elected will be declared elected. San Francisco, Oakland, Berkeley, Albany, Eureka, Palm Desert, and San Leandro use this system.

CONCLUSION

As a general law city, National City cannot organize primary elections and must follow the Elections Code’s single election, plurality method of determining a winning candidate. The City may seek legislation, but seven bills since 2006 have failed. The City may also adopt a charter and consider options to establish a majoritarian election system, including, but not limited to, primary, two-round runoff, and ranked choice voting election systems. Charter adoption requires a detailed notice and hearing procedure and approval by a majority of City voters participating in an election on the subject.

If you would like more information, regarding the issues discussed in this memo, please contact Aleks Giragosian at (213) 542-5734 or AGiragosian@chwlaw.us. Thank you for the opportunity to assist.

GENERAL LAW CITY VS CHARTER CITY



FACTS:

- California Has Two Types Of Cities, General Law Cities and Charter Cities.
- A City that has formally adopted its Charter is known as a “Charter” City.
- A City that abides by the General Laws adopted by the State Legislature is known as a “General Law” City.
- San Diego County includes 18 Cities, of which:

Charter (9): Carlsbad, Chula Vista, Del Mar, El Cajon, Oceanside, San Diego, San Marcos, Santee, Vista

General Law (9): Coronado, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, Solana Beach

- Statewide (As of January 2020, 121 of California’s 478 Cities are Charter Cities)



General Law City

The authority of a General Law City is derived from the general powers granted to it by the State Legislature and from the police powers granted to it by the State Constitution.

Police Power: general authority to make and enforce, within its geographical limits, all local, police, sanitary and other ordinances and regulations not in conflict with State law.

Must be reasonably related to legitimate governmental purpose.

Must be reasonably related to public health and general welfare.



Charter City

“Charter” City's power is not defined or limited by the State's General Laws. Instead, a Charter City's powers are defined by the City's own Charter subject only to the limitations of the State Constitution.

The City Charter is, in effect, the City's Constitution and supersedes all other inconsistent laws with respect to “Municipal Affairs.”



Municipal Affairs – Generally Accepted:

- A. Processes and Procedures Associated with City contracts
- B. Prevailing Wage Standards for City-Funded Projects (Projects using State or Federal Funding are still subject to State Prevailing Wage Laws).
- C. Municipal Election Matters (California Voting Rights Act still applies to Charter Cities)
- D. Procedures for Initiative, Referendum, and Recall
- E. Procedures for Adopting Ordinances
- F. Compensation of City Officers and Employees
- G. Financing Public Improvements
- H. Making Charitable Gifts of Public Funds for Public Purposes
- I. Term Limits for Council Members
- J. Land Use and Zoning Decisions

State Legislation pre-empts a City Charter

- A. Regulation of Traffic Control
- B. Government Claims Act Procedures for Claims Seeking Money or Damages from the Local Government
- C. Ralph M. Brown Act – Open Meeting Laws
- D. Meyers-Milias-Brown Act – Local Government Labor Relations
- E. CEQA – California Environmental Quality Act
- F. Public Records Act
- G. Licensing of Members for a Trade or Profession
- H. Eminent Domain and Annexations
- I. Conflict of Interest Laws

Considering Primary Elections with Districts

DISTRICT ELECTIONS

- November 2022 – Electors of Districts 1 and 3 elected their City Councilmember to represent their district.
- November 2024 – Electors of Districts 2 and 4 will elect their City Council members to represent each district.

Therefore, if the City Council should decide to move forward with a Charter and the possibility of adding a Primary Election, would not be accomplished until at the earliest the Election Year of 2026. The Primary Elections are generally held in March and the Charter may not be adopted in time depending on which process is used, and ultimately still depends on the voters to approve.

Statewide Direct Primary on the first Tuesday after the first Monday in March in even-numbered years. E.G. March 3, 2026, if legislation is not changed.

Elections

Methods for Conducting Elections:

- Single-Winner: One Candidate is elected for an office that only one person can serve on at a time. (e.g. President, Mayor)
- Multi-Winner: Elections for at-large City Council seats. (e.g. three at-large seats up for election in a given year).



Elections

Multi-Winner System Methods:

- Block Voting System:** A voter can select as many candidates as there are open seats. The candidates with the greatest number of votes are elected.
- Single Voting System:** Each voter can select one candidate regardless of the number of open seats.
- Cumulative Voting System:** Each voter can cast several votes equal to the number of seats up for election. A voter can allocate all of these votes to a single candidate or distribute them among several candidates.

Elections

Methods For Tallying Votes To Determine Electoral Outcomes

Plurality System: The Candidate who wins the largest share of votes wins the election. The majority not required.

Majority System: The candidate must win at least 50 percent of the vote.

Single-Winner Ranked-choice Voting System: Voters rank candidates by preference on their ballots.



Elections

Single-Winner Ranked-choice Voting System: Example: Candidates A, B, and C are running for Mayor. If a Candidate wins more than half the votes they win just like in any other election.

Candidate A	Candidate B	Candidate C
90 votes for First Choice	121 votes for Second Choice	100 votes for Third Choice

Eliminated for receiving the least amount of votes. First Choice votes are then given to remaining candidates based on their other votes.

Add 45 votes from first choice for a total of 166 votes

Add 45 votes from first choice for a total of 145 votes

CANDIDATE "B" IS THE WINNER



Charter Preparation

1. Council Preparation of Charter.
2. Formation of Charter Advisory Committee.
3. Formation of a 15 member Charter Commission.

Advisory Committee has the following advantages:

- ❖ The involvement of representatives of the various segments of the community in drafting the charter would bring more perspectives to the table as to what should and should not be included in the Charter.
- ❖ Creating a Charter Advisory Committee would also create a set of community leaders able to take the leadership role of providing information to the voters leading up to the election.
- ❖ As a City Measure, the City and City Council are limited as public funds may not be used to advocate in favor of the passage or the defeat of any ballot measure; or

Initiative Petition

Citizen Initiative Petition (Est. Cost \$50-100K+)

- Signed by at least 15% of the Registered Voters
Currently, 27,438 Registered Voters
15% = 4,116 minimum signatures

When collecting signatures a good rule of thumb is to collect a minimum plus 10% to account for any discrepancies in signatures or voter information provided.



The Legal Process

Recent state law has added additional steps in the hearing process to allow adequate opportunity for public input in the process. The development and public hearing process now requires at a minimum 90 days.

CITY COUNCIL CREATES CHARTER FOR VOTERS:

To place a Charter on the ballot, two Public Hearings must take place following an initial 21-day notice period where the meeting is noticed in three (3) different locations.

December 5, 2023: The City Council gives direction to staff to begin preparing for the process of the City Council drafting Charter.

January 16, 2024: City Attorney and City Clerk return with a report providing a set of comprehensive instructions and legal overview of process and timeline

February 16, 2024: First Public Hearing, a draft of the Charter would need to be considered by the City Council.

March 17, 2024: The second Public Hearing is required to take place 30 days after the first hearing.

April 16, 2024: Following the second Public Hearing, the item may be set for final City Council deliberation after another 21-day waiting period.

May 21, 2024: City Council final deliberation and finalize Charter for Measure on ballot

June 4, 2024: City Council adopts resolutions calling for and consolidating the election. The Clerk Prepares Legal Notices, Translations and documents for submittal to the ROV for August Deadline.

November, 2024: Charter Measure placed on the ballot for voters

December, 2024: Certify Election. If measure does not pass, certify election results and nothing more is done. If measure passes, the City Clerk prepares to send to the Secretary of State for approval.

January, 2025: Training and Implementation begins for City Council, City Staff regarding changes in new processes and procedures and what it means to be a Charter City.

Once this process is completed, the City Clerk can forward the measure regarding the proposed Charter to the San Diego County Registrar of Voters (ROV). The County's deadline for the submittal of measures for the November 2024 ballot is the first part of August, if the Council is interested in putting a Charter on the November 2024 ballot the Charter must be approved by the City Council at a Regular Meeting no later than June 18, 2024 to give staff time to prepare for the ballot and submittal to the ROV. (G.C. 34458)



Charter Advisory Committee

Direct the City Manager, City Attorney and City Clerk to prepare the necessary steps to move forward with a Charter Advisory Committee:

January 2024: Finalize Charter Advisory Committee requirements and advertise for Applicants.

February 2024: Appoint a Charter Advisory Committee and receive Council input regarding the Charter for the Charter Committee to consider.

March 2024: Charter Committee Drafting of Charter.

April-June 2024: Two (2) Public Hearings before the City Council (Public Hearings must be held at least 30 Days apart and Notice of the Public Hearings must be Posted in Three (3) Public Places within the City at Least 21 Calendar Days before the Date of each Public Hearing). The Second Public Hearing is Required to take place 30 Days after the First Public Hearing.

June 2024: Council Hearing on whether to approve Submission of the Charter to the Voters (Must Take Place at Least 21 Days after the Second Public Hearing).



15-Member Charter Commission

Elected by the voters – The City Council can call for the election or this action can be in the formation of the commission proposed by a citizen initiative. All members must be registered voter of the City (G.C. 34451)

December 2023: The City Council can call for the election of a 15-member Charter Commission to be placed on the ballot of a regular general election or special election, which would be November 2024. The deadline for March 2024 is December 8, which is not enough time for the process (95 days and we have 91 days)

November 2024: Questions on the ballot: Shall a Charter Commission be elected to propose a new Charter? and secondly, for the candidates for the office of Charter Commissioner. If the first question receives a majority of votes of the qualified voters, thereon at the election, the 15 candidates for office receiving the highest votes shall be organized as a commission. If the first question receives less than a majority there will be no commission.

December 2024: The election is certified and the Commission may begin to meet with staff to begin the process. The Commission has 2 years from the date of election to complete and submit a proposed charter. Once the Commission completes the proposed Charter, it is filed with the City Clerk who will then place it on the next established statewide general election provided there are at least 95 days before the election.

November 2026: The last Election the Charter could be voted on as proposed by the Charter Commission, and Charter is abolished after two-years.

If any vacancy arises in a Charter Commission, the vacancy shall be filled by an appointment of the Mayor. (G.C. 34452)



What is it that we want to fix by becoming a Charter City?



ADVANTAGES

ADVANTAGES OF CITY CHARTER STATUS:

- Exercise greater local control over the following “Municipal Affairs”:
 - Municipal Elections
 - However, the courts have held that at least some portion of the California Voting Rights Act applies to charter cities.
 - Fees or Compensation
 - Public Works Contracting
 - Support Organizations or Projects with Public Funds
 - Ordinance adoption procedures
 - Override any statutory limitations placed upon the levy of a business tax
 - Flexibility in some Planning matters, such as the number of General Plan Amendments per year.

DISADVANTAGES

Although there are no actual legal disadvantages associated with the adoption of a Charter, principal factors should be considered:

- Charters' are not as useful as they used to be with the State adopting so many laws that are of statewide significance, thereby overriding our "municipal affair" control.
- The time, effort, professional expense, and public funds required to formulate a Charter and hold the required election(s).
- The transition from many years of operation under "General Law" status to "Charter City" status requires some adjustment for staff and the public.
- Increased cost for legal resources needed to conduct "Legal Test" if an issue should arise in an undefined area where Charter and General Law may differ.
- Loss of immediate benefit of new State Legislation on matters of municipal concern unless action is taken by the City Council to adopt it. **CHARTER AMENDMENTS RETURN TO THE VOTERS** – the timing for the next Regular Election could delay a process or an opportunity.
- Transitions to Districts have undermined the need for Primary Elections, which limits the amount of candidates vying for each seat. If only 2 candidates for a seat, primaries aren't helpful.

Once A Charter Is Adopted – Future Costs Are Incurred And Ongoing

Adopting a City Charter involves extensive community action, either in support of a measure presented by the people or in response to one proposed by the City Council. This time-consuming process may divide a community even more than district elections.

On-going costs that will be incurred above a General Law City would incur after the Charter adoption. These included costs associated with the following:

- Training staff on new processes and procedures on what it means to be a Charter City.
- Implementing required procedural changes including adopting ordinances and amending NCMC.
- If public contracting is addressed in the charter and new bid thresholds are established, contract documents and bid packets will need to be updated.
- Any Financial or accountability procedures will require changes in procedure/policies by the Finance Department.
- Any personnel, civil service, or labor relations changes will require changes to existing processes, procedures, and rules and may require a meet-and-confer process with recognized employee associations.
- Lawsuits arising from exercising Charter powers.
- All Charter Amendments and repeals, including those mandated by changes in the law, require an election.

Ongoing Challenges

Some areas that seem to consistently withstand a challenge:

- Municipal Organization: The form of government and sub-government.
- Spending Local Funds: How a Charter City decides to use its own tax dollars.
- Elections: Timing, Qualifications, Balloting, etc.
- Salary and Benefits (including Retirement): City Council, other officers and employees



QUESTIONS?