

**AGENDA – REGULAR MEETING
BELVEDERE CITY COUNCIL
FEBRUARY 14, 2022, 6:30 P.M.
REMOTE MEETING**

On March 3, 2020 Governor Newsom proclaimed a State of Emergency due to the COVID-19 pandemic that remains in effect. This meeting will be held remotely consistent with Executive Order N-29-20 and Assembly Bill 361, modifying provisions of the Brown Act to allow remote meetings at the current time. Members of the public are encouraged to participate remotely via Zoom or telephone pursuant to the information and link below. Public comment will be accepted during the meeting. The public may also submit comments in advance of the meeting by emailing the City Clerk at: clerk@cityofbelvedere.org. Please write “Public Comment” in the subject line. Comments submitted one hour prior to the commencement of the meeting will be presented to the City Council and included in the public record for the meeting. Those received after this time will be added to the record and shared with City Councilmembers after the meeting.

City of Belvedere is inviting you to a scheduled Zoom meeting.

Topic: Belvedere Regular City Council Meeting

Time: February 14, 2022, 6:30 P.M.

Join Zoom Meeting:

<https://us02web.zoom.us/j/88019851338?pwd=OXovTk9ERWgvam8zSS83Rmd6cGpCdz09>

Webinar ID: 880 1985 1338

Passcode: 524568

877 853 5247 US Toll-free

888 788 0099 US Toll-free

The City encourages that comments be submitted in advance of the meeting. However, for members of the public using the Zoom video conference function, those who wish to comment on an agenda item should write “I wish to make a public comment” in the chat section of the remote meeting platform or use the raise hand function. At the appropriate time, the city clerk will allow oral public comment through the remote meeting platform. Any member of the public who needs special accommodations to access the public meeting should email the city clerk at clerk@cityofbelvedere.org, who will use her best efforts to provide assistance.

**AGENDA – REGULAR MEETING
BELVEDERE CITY COUNCIL
FEBRUARY 14, 2022, 6:30 P.M.
REMOTE MEETING**

COMMENTS ON AGENDA ITEMS BY MEMBERS OF THE AUDIENCE

The public will be given an opportunity to speak on each agenda item when it is called. Upon being recognized by the Mayor, please limit your oral statement to no more than three minutes. The Council welcomes comments and questions raised by interested citizens but typically does not respond during the comment period.

6:30 PM CALL TO ORDER

OPEN FORUM

This is an opportunity for any citizen to briefly address the City Council on any matter that does not appear on this agenda. Upon being recognized by the Mayor, please limit your oral statement to no more than three minutes. Matters that appear to warrant a more lengthy presentation or Council consideration may be agendized for further discussion at a later meeting.

REPORTS & PRESENTATIONS

1. City Council reports.
2. City Manager report.

CONSENT CALENDAR

The Consent Calendar consists of items that the City Council considers to be routine or has discussed previously and do not require further discussion. Unless any item is specifically removed by any member of the City Council, staff, or the public, the Consent Calendar will be adopted by one motion. Items removed will be considered in the sequence as they appear below. If any member of the public wishes to have an item removed, please raise your hand when called and indicate the item.

3. Approve minutes of the January 10, 2022, regular meeting.
4. Approve minutes of the January 27, 2022, special meeting.
5. Approve warrants of December 2021.
6. Accept the Fiscal Year Investment Report for the quarter ending December 31, 2021.
7. Adopt Resolution Designating Authorized Users of the City's Local Agency Investment Fund.
8. Adopt a Resolution approving a Construction Impact Committee.
9. Adopt a Resolution to Continue Remote Public Meetings pursuant to Assembly Bill 361 (Govt. Code sec. 54953(e)).

10. Adopt a Proclamation honoring Belvedere-Tiburon Library Director Deborah Mazzolini upon Retirement.
11. Accept Report to City Council Pursuant to Government Code Section 65858 (d) pertaining to the Urgency Ordinance of the City of Belvedere Adopting Title 22 Objective Design and Development Standards (ODDS) For Qualifying Multi-Family and Mixed-Use Projects.
12. Accept Report to City Council Pursuant to Government Code Section 65858 (d) pertaining to the Urgency Ordinance of the City of Belvedere Amending Title 18 – Subdivisions Establishing Regulations for the Subdivision and Development of Qualified Senate Bill 9 (SB9) Properties and Amending Title 19- Zoning of the Belvedere Municipal Code to Comply with Senate Bill 9 (SB9).

PUBLIC HEARING

13. Introduction and first reading of an Ordinance Repealing Belvedere Municipal Code Chapter 8.08 “Garbage Collection and Disposal” and Replacing with “Solid Waste Collection and Disposal” in compliance with State law SB 1383.
Staff Recommendation: Motion to read Ordinance by title only. Approve the first reading of the Ordinance and waive future reading of the Ordinance in its entirety.
14. First Public Hearing on Proposing a City Charter for Belvedere and the Content of the Proposed Charter.
Staff Recommendation: Consider the draft Charter.

OTHER SCHEDULED ITEMS

15. Discussion and Possible Action to adopt a Resolution to award contract for construction of the Community Park Playground Project to McNabb Construction, and adopt a Resolution to approve an amendment to the Belvedere City budget to fund the Community Park Playground Project. *Staff Recommendation: Adopt the Resolutions.*
16. Discussion and Possible Action to adopt a Resolution for the Critical Infrastructure Project Contract and adopt a Resolution for a Budget amendment.
Staff Recommendation: Adopt the Resolutions.

ADJOURN

NOTICE: WHERE TO VIEW AGENDA MATERIALS

Staff reports and other materials distributed to the City Council are available for public inspection at the following locations:

- Online at www.cityofbelvedere.org/archive.aspx
- Belvedere City Hall, 450 San Rafael Avenue, Belvedere. *(Materials distributed to the City Council after the Thursday before the meeting are available for public inspection at this location only.)*
- Belvedere-Tiburon Library, 1501 Tiburon Boulevard, Tiburon.

To request automatic mailing of agenda materials, please contact the City Clerk at (415) 435-3838.

NOTICE: AMERICANS WITH DISABILITIES ACT

The following accommodations will be provided, upon request, to persons with a disability: agendas and/or agenda packet materials in alternate formats and special assistance needed to attend or participate in this meeting. Please make your request at the Office of the City Clerk or by calling 415/435-3838. Whenever possible, please make your request four working days in advance.

CONSENT CALENDAR

**BELVEDERE CITY COUNCIL
FEBRUARY 14, 2022**

To: Mayor and City Council

From: Beth Haener, City Clerk

Subject: **Approve minutes of the January 10, 2022 Regular City Council meeting**

Recommended Motion/Item Description

That the City Council approve the minutes as part of the Consent Calendar.

Attachments

Minutes.

**REGULAR MEETING
BELVEDERE CITY COUNCIL
JANUARY 10, 2022, 6:30 PM
REMOTE VIA ZOOM**

MINUTES

COUNCIL PRESENT: James Campbell, Nancy Kemnitzer, James Lynch, Steve Block, and Sally Wilkinson

COUNCIL ABSENT: None

STAFF PRESENT: City Manager Craig Middleton, Police Chief Jason Wu, Public Works Director Robert Zadnik, Interim Administrative Services Director Kristine Polian, Planning and Building Director Irene Borba, Senior Planner Rebecca Markwick, City Attorney Amy Ackerman, and City Clerk Beth Haener

These minutes are intended to reflect the general content of the regular meeting. An audio file of the meeting is available: <https://www.cityofbelvedere.org/agendacenter>.

CALL TO ORDER IN REMOTE OPEN SESSION

The meeting was called to order by Mayor Wilkinson at 6:30 PM via remote Zoom meeting. City Clerk Haener read the COVID-19 notice and public participation instructions.

City Manager Middleton took roll call.

OPEN FORUM

Belvedere resident William Rothman requested to share his screen but had technical difficulties and asked Council to move forward without his comment.

Seeing no one else wishing to speak, Mayor Wilkinson closed the open forum.

REPORTS & PRESENTATIONS

1. City Council Reports

Councilmember Kemnitzer reported that the World Health Organization, through the auspices of the American Association of Retired Persons (AARP), approved Belvedere's Age Friendly Strategic Plan, and stated she will bring the plan forward at the Council retreat later this month. Councilmember Kemnitzer also reported the Belvedere Climate Action Plan update was submitted to the City's consultant Christine O'Rourke and the Marin Climate and Energy Partnership for further review. Once reviewed, the plan will be brought forward for public comment and for Council approval this spring.

2. City Manager Report

City Manager Middleton introduced the new City Attorney Amy Ackerman from the Renne Public Law Group and stated that the City looks forward to working with her.

City Manager Middleton reported the Marin Municipal Water District (MMWD) will be working in Tom Price Park this week, installing a planned rerouting of the fire and water supply service line, and commented that a trenchless method will be used to minimize Park disruption.

City Manager Middleton reported on COVID-19 cases in the Belvedere and stated the importance to stay safe during this Omicron wave.

City Manager Middleton listed the upcoming City meetings scheduled within the next few weeks. He stated that the Annual Town meeting will be rescheduled for some time in the spring so that the City can meet in person, and indicated that the public will be updated once a date is scheduled.

Mayor Wilkinson called for public comment and, seeing none, closed the public forum.

3. Police Department quarterly report presented by Police Chief Jason Wu.

Police Chief Jason Wu presented the Police Department's quarterly report and took questions from the Council.

Mayor Wilkinson called for public comment and, seeing none, closed the public forum.

CONSENT CALENDAR

MOTION: Move to adopt the Consent Calendar

MOVED: By Campbell, seconded by Lynch. approval was unanimous

The Consent Calendar consisted of the following Items:

- 4. Approve minutes of the December 13, 2021, regular meeting.**
- 5. Approve Minutes of the December 21, 2021, special meeting.**
- 6. Adopt a Resolution to Continue Remote Public Meetings pursuant to Assembly Bill 361.**
- 7. Adopt a Resolution ratifying Lexipol Police Department Policy Manual updates.**

PUBLIC HEARING

8. Appeal of Planning Commission action of November 16, 2021, denial of Design Review for a dock extension located at 44 San Rafael Avenue. Property owner and appellant: Richard Laiderman.

Senior Planner Rebecca Markwick presented the staff report and took questions from Council.

Mayor Wilkinson opened the Public Hearing.

Property owner and appellant Richard Laiderman shared his screen and presented his appeal to Council. Mr. Laiderman discussed the location of the dock extension proposal, and his neighbor's dock location and view. Mr. Laiderman stated that he reduced his proposed extension by 52% after considering the neighbors' objections. Mr. Laiderman asked Council to approve the dock extension proposal.

Robert Miller, son of Lily Miller, the neighbor of the proposed dock, discussed the design criteria and stated that the Planning Commission concluded that the criteria had not been met, and asked Council to deny the dock extension.

Belvedere resident Sprague Von Stroh stated that the Planning Commission found that this improvement was in contradiction to the design review criteria, and asked Council to deny the dock extension.

Belvedere resident and neighbor of the proposer, Bob Huret, stated his support for the dock extension.

Belvedere resident John Pearson stated his support for the dock extension.

Richard Laiderman offered his rebuttal and asked Council to approve the proposal.

Mayor Wilkinson closed the public hearing and brought it back to Council for discussion. The Council discussed the appeal and noted that the proposal would not affect property outside of the appellant's property line, does not propose

lighting, and is not opposed by the Belvedere Lagoon Property Owner’s Association (BLPOA). Council determined that the dock extension should be approved.

MOTION: Move to adopt the resolution granting the appeal and approve the Design Review for a dock expansion for the property located at 44 San Rafael Avenue
MOVED: By Campbell, seconded by Block. approval was unanimous

9. Adoption of an Urgency Ordinance Amending Belvedere Municipal Code Title 18 -Subdivisions establishing regulations for the subdivision and development of qualified Senate Bill 9 (SB9) properties and amending Title 19 – Zoning to comply with Senate Bill.

Director of Planning and Building Irene Borba presented the staff report and took questions from Council with the help of Attorney Barbara Kautz.

Councilmember Campbell expressed a concern about housing being confined to the same architectural style and asked if this will be expanded, giving residents more options. Planning and Building Borba stated that, yes, there will be a wider playbook once the Objective Design and Development Standards (ODDS) are adopted. Councilmember Kemnitzer asked if notice will be required to be given to affected neighbors. Planning and Building Director Borba stated that as it is written, there is no requirement for notice. Attorney Kautz stated that the approval is ministerial, as no public hearings are required. The Council discussed the need for notice.

Mayor Wilkinson called for public comment.

Belvedere resident William Rothman stated he feels this urgency ordinance prevents the basic goal of the legislation and that the intent of this legislation cannot be carried out under it.

Seeing no one else wishing to speak, Mayor Wilkinson closed public comment and brought it back to Council for discussion. Council discussed the need for notice and discussed that changes can be made to this ordinance down the road. Mayor Wilkinson stated that this document will evolve and thanked staff and the Planning Commission subcommittee for their work.

MOTION: Adopt an Urgency Ordinance of the City of Belvedere Amending Title 18 – Subdivisions Establishing Regulations for the Subdivision and Development of Qualified Senate Bill 9 (SB9) Properties and Amending Title 19- Zoning of the Belvedere Municipal Code to Comply With Senate Bill 9 (SB9)
MOVED: By Campbell, seconded by Block. approval was unanimous

ADJOURN

The meeting was adjourned at 8:07 P.M.

THE FOREGOING MINUTES were approved at a regular meeting of the Belvedere City Council on February 14, 2022, by the following vote:

AYES: James Campbell, Nancy Kemnitzer, James Lynch, Steve Block, and Mayor Wilkinson
NOES: None
ABSENT: None
RECUSED: None

Approve: _____
Sally Wilkinson, Mayor

Attest: _____
Beth Haener, City Clerk

CONSENT CALENDAR

**BELVEDERE CITY COUNCIL
FEBRUARY 14, 2022**

To: Mayor and City Council

From: Beth Haener, City Clerk

Subject: Approve minutes of the January 27, 2022 Special City Council meeting

Recommended Motion/Item Description

That the City Council approve the minutes as part of the Consent Calendar.

Attachments

Minutes.

**SPECIAL MEETING
BELVEDERE CITY COUNCIL
JANUARY 27, 2022, 6:00 PM
REMOTE VIA ZOOM**

MINUTES

COUNCIL PRESENT: James Campbell, Nancy Kemnitzer, James Lynch, Steve Block, and Sally Wilkinson.

COUNCIL ABSENT: None

STAFF PRESENT: City Manager Craig Middleton, Director of Planning and Building Irene Borba, Senior Planner Rebecca Markwick, Assistant City Attorney Ann Danforth and City Clerk Beth Haener.

These minutes are intended to reflect the general content of the regular meeting. An audio file of the meeting is available: <https://www.cityofbelvedere.org/agendacenter>.

CALL TO ORDER OF SPECIAL MEETING

The meeting was called to order by Mayor Wilkinson at 6:02 PM via remote Zoom meeting. City Clerk Haener read the COVID-19 notice and public participation instructions.

City Manager Middleton took roll call.

PUBLIC HEARING

1. Adoption of an Urgency Ordinance of the City of Belvedere Adopting Title 22 Objective Design and Development Standards (ODDS) For Qualifying Multi-Family and Mixed-Use Projects.

Senior Planner Rebecca Markwick presented the staff report and took questions from Council.

Councilmember Kemnitzer commented on the correspondence received on the item. Senior Planner Markwick stated that the correspondence had to do with height restrictions and stated that the Planning Department had a conversation with the concerned parties and these concerns can be reviewed further, such as allowing greater height restrictions if needed.

Councilmember Block asked about screening, requirements around equipment, and requirements on lighting. Senior Planner Markwick stated all issues can be reviewed further and refined over time.

Council discussed the architectural style restrictions under the ODDS and height limitations.

Mayor Wilkinson asked Senior Planner Markwick to confirm that this ordinance has no application in relation to Mallard Pointe, and Senior Planner Markwick stated yes, that is correct.

Mayor Sally Wilkinson called for public comment.

Belvedere resident and member of the subcommittee of the Planning Commission-ODDS Project, Peter Mark, commented on height restrictions and stated the subcommittee did not have a clear answer on this issue. Peter Mark also commented on the architectural style restrictions under ODDS and stated the subcommittee wanted more choices and are open to adding to the palette.

Belvedere resident and member of the Belvedere Land Company Chloe Byruck commented on the height restrictions and stated her concern on how the height is measured, and how these restrictions correlate for buildings in the flood zone.

Seeing no one else wishing to speak, Mayor Wilkinson closed public comment and brought it back to Council for discussion.

Councilmember Campbell requested that Mayor Wilkinson consider creating a subcommittee to look into height limitations.

MOTION: Adopt an Urgency Ordinance of the City of Belvedere Adopting Title 22 Objective Design and Development Standards (ODDS) For Qualifying Multi-Family and Mixed-Use Projects

MOVED: By Block, seconded by Kemnitzer; approval was unanimous.

ADJOURN

The meeting was adjourned at 6:37 P.M.

THE FOREGOING MINUTES were approved at a regular meeting of the Belvedere City Council on February 14, 2022, by the following vote:

- AYES:** James Campbell, Nancy Kemnitzer, James Lynch, Steve Block, and Mayor Wilkinson
- NOES:** None
- ABSENT:** None
- RECUSED:** None

Approve: _____
Sally Wilkinson, Mayor

Attest: _____
Beth Haener, City Clerk

CONSENT CALENDAR

**BELVEDERE CITY COUNCIL
FEBRUARY 14, 2022**

To: Mayor and City Council
From: Helga Cotter, Administrative Services Director
Subject: **Approve December 2021 Warrants**

Recommended Motion/Item Description

That the City Council approve the December 2021 warrants as part of the Consent Calendar.

Attachments

Warrants.

CITY OF BELVEDERE
WARRANTS REPORT
DECEMBER 2021
BANK ACCOUNT 1000
OPERATING CHECKING ACCOUNT

Check Number	Check Date	Vendor # (Name)	Net Amount	Check Description
27141	12/14/2021	ARTISTRY IN TREES	5,520.00	Automatic Generated Check
27142	12/14/2021	CIRA	2,036.34	Automatic Generated Check
27143	12/14/2021	CITY OF FOSTER CITY	520.00	Automatic Generated Check
27144	12/14/2021	CITY OF SAN RAFAEL	9,186.00	Automatic Generated Check
27145	12/14/2021	DIGITECH REPROGRAPHICS	2,835.87	Automatic Generated Check
27146	12/14/2021	FIELDMAN, ROLAPP & ASSOCIATES	891.00	Automatic Generated Check
27147	12/14/2021	STERICYCLE INC	469.90	Automatic Generated Check
27148	12/14/2021	TOWN OF TIBURON	11,264.00	Automatic Generated Check
27149	12/14/2021	TPX COMMUNICATIONS	878.09	Automatic Generated Check
27150	12/14/2021	U.S. BANK CORPORATE PAYME	6,213.41	Automatic Generated Check
27151	12/14/2021	VERIZON	86.66	Automatic Generated Check
27152	12/14/2021	ZERO WASTE USA, INC.	595.59	Automatic Generated Check
27156	12/21/2021	ALLEN GLAESSNER HAZELWOOD & WERTH LLP	5,670.00	Automatic Generated Check
27157	12/21/2021	AMMI PUBLISHING COMP. INC	260.00	Automatic Generated Check
27158	12/21/2021	AT&T MOBILITY	216.15	Automatic Generated Check
27159	12/21/2021	CORINTHIAN YACHT CLUB	125.00	Automatic Generated Check
27160	12/21/2021	CORNER OFFICE	3,126.56	Automatic Generated Check
27161	12/21/2021	MARIN COUNTY TAX COLLECTOR	880.00	Automatic Generated Check
27162	12/21/2021	DIGITECH REPROGRAPHICS	788.70	Automatic Generated Check
27163	12/21/2021	EASTMAN INVESTIGATIVE SERVICES	950.00	Automatic Generated Check
27164	12/21/2021	FASTRAK INVOICE PROCESSING DEPT.	6.00	Automatic Generated Check
27165	12/21/2021	FORTICON INC	118,979.56	Automatic Generated Check
27166	12/21/2021	GOLDFARB LIPMAN ATTORNEYS	6,188.00	Automatic Generated Check
27167	12/21/2021	HORIZON	253.18	Automatic Generated Check
27168	12/21/2021	JACKSON'S	482.16	Automatic Generated Check
27169	12/21/2021	NATIONAL APPLIANCE SVC	462.59	Automatic Generated Check
27170	12/21/2021	PG&E CFM/PPC DEPARTMENT	0.00	Automatic Generated Check
27171	12/21/2021	ROTO-ROOTER PLUMBERS	4,320.00	Automatic Generated Check
27172	12/21/2021	STETSON ENGINEERS, INC.	429.75	Automatic Generated Check
27173	12/21/2021	TIBURON PENINSULA TRAFFIC	42,446.00	Automatic Generated Check
27174	12/21/2021	UNICORN GROUP	73.68	Automatic Generated Check
27175	12/21/2021	US BANK	2,650.00	Automatic Generated Check
27176	12/21/2021	VERIZON	469.96	Automatic Generated Check
27177	12/21/2021	VERIZON	130.94	Automatic Generated Check
27178	12/21/2021	WAGeworks INC.	100.00	Automatic Generated Check
27179	12/21/2021	WELLS FARGO VENDOR FINANCIAL SERVICES LLC	148.30	Automatic Generated Check
A-969	12/31/2021	CALPERS	196.43	Electronic Payment
A-970	12/1/2021	CA EDD	21.97	Electronic Payment
A-971	12/2/2021	EFTPS	17,276.37	Electronic Payment
A-972	12/2/2021	CA EDD	5,689.66	Electronic Payment
A-973	12/2/2021	GLOBAL PAYMENTS	342.97	Electronic Payment
A-974	12/6/2021	CALPERS	35,847.55	Electronic Payment
A-976	12/6/2021	DELTA DENTAL	5,647.44	Electronic Payment
A-977	12/7/2021	LINCOLN LTD	2,066.40	Electronic Payment
A-978	12/31/2021	PG&E	3,043.37	Electronic Payment
A-979	12/7/2021	AFLAC INSURANCE CO	102.58	Electronic Payment
A-980	12/7/2021	AFLAC INSURANCE CO	102.58	Electronic Payment
A-981	12/13/2021	PITNEY BOWES	73.60	Electronic Payment
A-982	12/15/2021	WESTAMERICA BANK	352.11	Electronic Payment
A-983	12/16/2021	EFTPS	14,225.01	Electronic Payment
A-984	12/17/2021	CA EDD	4,577.48	Electronic Payment

CITY OF BELVEDERE
WARRANTS REPORT
DECEMBER 2021
BANK ACCOUNT 1000
OPERATING CHECKING ACCOUNT

Check Number	Check Date	Vendor # (Name)	Net Amount	Check Description
A-985	12/20/2021	CALPERS	17,192.87	Electronic Payment
A-986	12/20/2021	COMCAST	48.80	Electronic Payment
A-987	12/21/2021	CALPERS	14,665.28	Electronic Payment
A-988	12/22/2021	RELIANT STANDARD LIFE/ADD	372.73	Electronic Payment
A-989	12/22/2021	RELIANT STANDARD LIFE/ADD	369.04	Electronic Payment
A-990	12/22/2021	AT&T	194.72	Electronic Payment
A-991	12/23/2021	CONNECT YOUR CARE	7.40	Electronic Payment
A-992	12/24/2021	CALPERS	35,560.93	Electronic Payment
A-993	12/24/2021	CALPERS	196.43	Electronic Payment
A-994	12/31/2021	AT&T	64.20	Electronic Payment
A-995	12/31/2021	EFTPS	14,721.51	Electronic Payment
A-996	12/31/2021	EFTPS	10,447.69	Electronic Payment
A-997	12/31/2021	CA EDD	4,748.83	Electronic Payment
A-998	12/31/2021	CA EDD	2,842.24	Electronic Payment
AP121421-01	12/14/2021	ALHAMBRA & SIERRA SPRINGS	46.42	Electronic Payment
AP121421-02	12/14/2021	ARBORSCIENCE	600.00	Electronic Payment
AP121421-03	12/14/2021	CAPRI	7,986.00	Electronic Payment
AP121421-04	12/14/2021	CIVICPLUS	2,932.01	Electronic Payment
AP121421-05	12/14/2021	DOCUSIGN INC	2,484.00	Electronic Payment
AP121421-06	12/14/2021	EPSTEIN + HOLTZAPPLE	4,104.00	Electronic Payment
AP121421-07	12/14/2021	EPSTEIN + HOLTZAPPLE	576.00	Electronic Payment
AP121421-08	12/14/2021	EPSTEIN + HOLTZAPPLE	1,680.00	Electronic Payment
AP121421-09	12/14/2021	JESUS ARGUELLES	639.81	Electronic Payment
AP121421-10	12/14/2021	JESUS ARGUELLES	1,312.48	Electronic Payment
AP121421-11	12/14/2021	MARIN IT, INC.	559.50	Electronic Payment
AP121421-12	12/14/2021	MARIN IT, INC.	93.75	Electronic Payment
AP121421-13	12/14/2021	MAZE & ASSOCIATES	6,478.00	Electronic Payment
AP121421-14	12/14/2021	PORAC RETIREE MEDICAL TRU	2,250.00	Electronic Payment
AP121421-15	12/14/2021	TIBURON FIRE PROTECTION	2,438.63	Electronic Payment
AP122121-01	12/21/2021	AVENU MUNISERVICES	1,400.00	Electronic Payment
AP122121-02	12/21/2021	BELVEDERE-TIBURON LIBRARY	384,928.15	Electronic Payment
AP122121-03	12/21/2021	BELVEDERE-TIBURON LIBRARY	4,284.15	Electronic Payment
AP122121-04	12/21/2021	CRITICAL REACH, INC.	100.00	Electronic Payment
AP122121-05	12/21/2021	EDMUND H. SAN DIEGO	619.50	Electronic Payment
AP122121-06	12/21/2021	GENARO MUNIZ	26.98	Electronic Payment
AP122121-07	12/21/2021	INSPECTION SERVICE & FIRE PROTECTION INC	225.00	Electronic Payment
AP122121-08	12/21/2021	MARY NEILAN	556.94	Electronic Payment
AP122121-09	12/21/2021	MAZE & ASSOCIATES	3,682.00	Electronic Payment
AP122121-10	12/21/2021	PARS	600.00	Electronic Payment
AP122121-11	12/21/2021	PARS	2,750.00	Electronic Payment
AP122121-12	12/21/2021	SPTJ CONSULTING	7,200.00	Electronic Payment
AP122121-13	12/21/2021	TREEMASTERS	525.00	Electronic Payment
Total for Bank Account 1000 ----->			861,729.90	

CITY OF BELVEDERE
WARRANTS REPORT
DECEMBER 2021
BANK ACCOUNT 1010
PAYROLL CHECKING ACCOUNT

Check Number	Check Date	Vendor # (Name)	Net Amount	Check Description
121	12/1/2021	DIRECT DEPOSIT	1,127.25	Electronic Payment
122	12/2/2021	DIRECT DEPOSIT	71,405.39	Electronic Payment
123	12/3/2021	DIRECT DEPOSIT	13,354.48	Electronic Payment
123-1	12/23/2021	DIRECT DEPOSIT	64,076.79	Electronic Payment
124	12/14/2021	DIRECT DEPOSIT	63,297.98	Electronic Payment
125	12/31/2021	DIRECT DEPOSIT	45,921.62	Electronic Payment
P-087	12/2/2021	MASS MUTUAL	409.26	Electronic Payment
P-088	12/16/2021	MASS MUTUAL	409.26	Electronic Payment
P-089	12/30/2021	MASS MUTUAL	409.26	Electronic Payment
PR120221-01	12/2/2021	BPOA	92.30	Electronic Payment
PR120221-02	12/2/2021	ICMA-RC	5,059.02	Electronic Payment
PR120221-03	12/2/2021	GARNISHMENT	692.31	Electronic Payment
PR121621-01	12/16/2021	BPOA	92.30	Electronic Payment
PR121621-02	12/16/2021	ICMA-RC	4,904.41	Electronic Payment
PR121621-03	12/16/2021	GARNISHMENT	692.31	Electronic Payment
PR123021-01	12/30/2021	BPOA	92.30	Electronic Payment
PR123021-02	12/30/2021	GARNISHMENT	692.31	Electronic Payment
PR-123121-01	12/31/2021	BPOA	9.23	Electronic Payment
PR-123121-02	12/31/2021	ICMA-RC	44,320.42	Electronic Payment
Total for Bank Account 1010 ----->			317,058.20	
Grand Total of all Bank Accounts ----->			1,178,788.10	

To: Mayor and City Council
From: Helga Cotter, Administrative Services Director
Subject: **Investment Report as of December 31, 2021**

Recommended Motion/Item Description

That the City Council receive the City’s Investment Report for the quarter ending December 31, 2021, as part of the Consent Calendar.

Background

This report is provided as required by the City’s investment policy. Current investments are consistent with the investment policy and are allowable under current California law. Investments are selected to meet the priority principals of the policy: safety, liquidity, and yield in respective order.

The balance in the CEPPT 115 Trust as of December 31, 2021, was as follows:

Initial Installments (9 out of 15)	\$ 900,000
Annual Investment – FY22	300,000
Investment Earnings	23,643
<u>Less: Investment/Admin Fees</u>	<u>(965)</u>
Ending Balance	\$1,222,678

Attachments

1. Investment Summary Report
2. LAIF Remittance Advice on December 31, 2021
3. CEPPT Account Update on December 31, 2021

CITY OF BELVEDERE
REPORT ON INVESTMENTS
FISCAL YEAR 2021/22

QUARTER-ENDED 12/31/21

Investment	Balance	Interest Earned	Investment Yield	Maturity
Local Agency Investment Fund (LAIF)	\$ 7,505,361.97	\$ 2,940.04	0.23%	Liquid
CalPERS CEPPT 115 Pension Trust	1,222,677.60	\$ 33,203.18	3.00%	Liquid - with restrictions on use



BETTY T. YEE

California State Controller

LOCAL AGENCY INVESTMENT FUND
REMITTANCE ADVICE

Agency Name

BELVEDERE

Account Number

98-21-071

As of 01/14/2022, your Local Agency Investment Fund account has been directly credited with the interest earned on your deposits for the quarter ending 12/31/2021.

Earnings Ratio		.00000625812849570
Interest Rate		0.23%
Dollar Day Total	\$	469,795,565.80
Quarter End Principal Balance	\$	7,505,361.97
Quarterly Interest Earned	\$	2,940.04

CEPPT Account Update Summary

City of Belvedere

as of December 31, 2021

CEPPT Account Summary

As of December 31, 2021	Strategy 1	Strategy 2	Total
Initial contribution (05/25/2021)	\$100,000	\$0	\$100,000
Additional contributions	\$1,100,000	\$0	\$1,100,000
Disbursements	\$0	\$0	\$0
CEPPT expenses	(\$966)	\$0	(\$966)
Investment earnings	\$23,643	\$0	\$23,643
Total assets (05/25/2021-12/31/2021 = .6 years)	\$1,222,678	\$0	\$1,222,678

CEPPT/CERBT Investment Returns Outperform Benchmarks

Periods ended November 30, 2021

Fund	Assets	1 Month	3 Months	FYTD	1 Year	3 Years	5 Years	10 Years	ITD
CERBT Strategy 1 (Inception June 1, 2007)	\$14,257,799,070	-1.84%	-1.29%	1.42%	14.35%	13.45%	10.99%	9.26%	6.20%
Benchmark		-1.87%	-1.34%	1.34%	14.14%	13.17%	10.65%	8.92%	5.79%
CERBT Strategy 2 (Inception October 1, 2011)	\$1,934,821,232	-1.30%	-0.94%	1.52%	10.63%	12.03%	9.46%	7.90%	8.24%
Benchmark		-1.32%	-0.97%	1.46%	10.45%	11.82%	9.14%	7.57%	7.95%
CERBT Strategy 3 (Inception January 1, 2012)	\$851,347,899	-0.79%	-0.45%	1.84%	8.10%	10.54%	7.86%	-	6.51%
Benchmark		-0.80%	-0.47%	1.81%	7.98%	10.37%	7.61%	-	6.21%
CERBT Total	\$17,043,968,201								
CEPPT Strategy 1 (Inception October 1, 2019)	\$43,108,251	-1.07%	-1.16%	0.98%	9.28%	-	-	-	10.17%
Benchmark		-1.10%	-1.22%	0.93%	9.16%	-	-	-	10.15%
CEPPT Strategy 2 (Inception January 1, 2020)	\$21,181,911	-0.31%	-0.83%	0.79%	4.02%	-	-	-	6.01%
Benchmark		-0.32%	-0.85%	0.77%	3.86%	-	-	-	5.86%
CEPPT Total	\$64,290,162								

CEPPT Expected Rates of Return & Risk

Portfolios	CEPPT Strategy 1	CEPPT Strategy 2
Expected Return	5.0%	4.0%
Risk	8.2%	5.2%

CEPPT Portfolio Details

Asset Classification	Benchmark	CEPPT Strategy 1	CEPPT Strategy 2
Global Equity	MSCI All Country World Index	40% ±5%	14% ±5%
Fixed Income	Bloomberg Barclays U.S. Aggregate Bond Index	47% ±5%	73% ±5%
Global Real Estate (REITs)	FTSE EPRA/NAREIT Developed Liquid Index	8% ±5%	8% ±5%
Treasury Inflation Protected Securities (TIPS)	Barclays Capital Global Real: US TIPS Index	5% ±3%	5% ±3%
Cash	3-Month Treasury Bill	0% +2%	0% +2%

Total Participation Cost Fee Rate

- Total all-inclusive cost of participation
 - Combines administrative, custodial, and investment fees
 - Separate trust funds
 - Self-funded, fee rate may change in the future
 - Fee is applied daily to assets under management
 - 10 basis points - CERBT
 - 25 basis points - CEPPT

CEPPT/CERBT Consistently Low Fee Rate History

Fiscal Year	CERBT	CEPPT
2007-2008	2.00 basis points	-
2008-2009	6.00 basis points	-
2009-2010	9.00 basis points	-
2010-2011	12.00 basis points	-
2011-2012	12.00 basis points	-
2012-2013	15.00 basis points	-
2013-2014	14.00 basis points	-
2014-2015	10.00 basis points	-
2015-2016	10.00 basis points	-
2016-2017	10.00 basis points	-
2017-2018	10.00 basis points	-
2018-2019	10.00 basis points	-
2019-2020	10.00 basis points	25.00 basis points
2020-2021	10.00 basis points	25.00 basis points
2021-2022	10.00 basis points	25.00 basis points

606 Prefunding Program Employers

591 CERBT and 58 CEPPT

- State of California
- 154 Cities or Towns
- 10 Counties
- 79 School Employers
- 31 Courts
- 331 Special Districts and other Public Agencies
 - (100 Water, 36 Sanitation, 33 Fire, 25 Transportation)

Questions? Where to Get Trust Fund Information?

Name	Title	E-mail	Desk	Mobile
Matt Goss	Outreach & Support Program Manager	Matthew.Goss@calpers.ca.gov	(916) 795-9071	(916) 382-6487
Karen Lookingbill	Outreach & Support Manager	Karen.Lookingbill@calpers.ca.gov	(916) 795-1387	(916) 501-2219
Vic Anderson	Outreach & Support Manager	Victor.Anderson@calpers.ca.gov	(916) 795-3739	(916) 281-8214
Jasper Jacobs	Outreach & Support Analyst	Jasper.Jacobs@calpers.ca.gov	(916) 795-0432	(916) 717-3886
Colleen Cain-Herrback	Administration & Reporting Program Manager	Colleen.Cain-Herrback@calpers.ca.gov	(916) 795-2474	(916) 505-2506
Robert Sharp	Assistant Division Chief	Robert.Sharp@calpers.ca.gov	(916) 795-3878	(916) 397-0756

Program E-mail Addresses	Prefunding Programs Webpages
CEPPT4U@calpers.ca.gov – Questions & Document Submittal	www.calpers.ca.gov/CEPPT
CERBT4U@calpers.ca.gov – Questions & Document Submittal	www.calpers.ca.gov/CERBT
CERBTACCOUNT@calpers.ca.gov – Online Record Keeping System	

December 31, 2021

Objective

The CEPPT Strategy 1 portfolio seeks to provide capital appreciation and income consistent with its strategic asset allocation. There is no guarantee that the portfolio will achieve its investment objective.

Strategy

The CEPPT Strategy 1 portfolio is invested in various asset classes that are passively managed to an index. CalPERS periodically adjusts the composition of the portfolio in order to match the target allocations. Generally, equities are intended to help build the value of the employer's portfolio over the long term while bonds are intended to help provide income and stability of principal. Also, strategies invested in a higher percentage of equities seek higher investment returns (but assume more risk) compared with strategies invested in a higher percentage of bonds.

Compared with CEPPT Strategy 2, this portfolio has a higher allocation to equities than bonds. Historically, equities have displayed greater price volatility and, therefore, this portfolio may experience greater fluctuation of value. Employers that seek higher investment returns, and are able to accept greater risk and tolerate more fluctuation in returns, may wish to consider this portfolio.

CalPERS Board may change the list of approved asset classes in composition as well as targeted allocation percentages and ranges at any time.

Assets Under Management

As of the specified reporting month-end:

CEPPT Strategy 1	Annual Expense Ratio
\$50,709,834	0.25%

Composition

Asset Class Allocations and Benchmarks

The CEPPT Strategy 1 portfolio consists of the following asset classes and corresponding benchmarks:

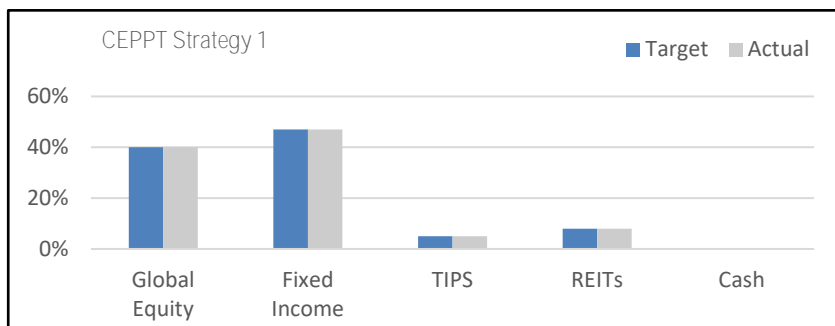
Asset Class	Target Allocation	Target Range	Benchmark
Global Equity	40%	± 5%	MSCI All Country World Index IMI (Net)
Fixed Income	47%	± 5%	Bloomberg US Aggregate Bond Index
Treasury Inflation-Protected Securities ("TIPS")	5%	± 3%	Bloomberg US TIPS Index, Series L
Real Estate Investment Trusts ("REITs")	8%	± 5%	FTSE EPRA/NAREIT Developed Index (Net)
Cash	-	+ 2%	91-Day Treasury Bill

Portfolio Benchmark

The CEPPT Strategy 1 benchmark is a composite of underlying asset class market indices, each assigned the target weight for the asset class it represents.

Target vs. Actual Asset Class Allocations

The following chart shows policy target allocations compared with actual asset allocations as of the specified reporting month-end. CalPERS may temporarily deviate from the target allocation for a particular asset class based on market, economic, or other considerations.



CEPPT Strategy 1 Performance as of December 31, 2021

	1 Month	3 Months	Fiscal YTD	1 Year	3 Years*	5 Years*	10 Years*	Since Inception* (October 1, 2019)
Gross Return ^{1,3}	1.99%	3.40%	3.00%	8.72%	-	-	-	10.73%
Net Return ^{2,3}	1.97%	3.34%	2.88%	8.47%	-	-	-	10.48%
Benchmark Return	2.01%	3.38%	2.96%	8.65%	-	-	-	10.73%
Standard Deviation ⁴	-	-	-	-	-	-	-	-

* Returns for periods greater than one year are annualized.

¹ Gross returns are net of SSGA operating expenses.

² Net returns are net of SSGA operating expenses, investment management, administrative and recordkeeping fees.

³ Expenses are described in more detail on page 2 of this document.

⁴ Standard deviation is based on gross returns and is reported for periods greater than 3 years.

December 31, 2021

Information Accessibility

The CEPPT Strategy 1 portfolio consists of assets managed internally by CalPERS and/or by external managers. Since it is not a mutual fund, a prospectus is not available and daily holdings are not published. CalPERS provides a quarterly statement of the employer's account and other information about the CEPPT. For total market value, detailed asset allocation, investment policy and performance information, please visit our website at www.calpers.ca.gov.

Portfolio Manager Information

The CalPERS Board, through its Investment Committee, directs the CEPPT investment strategy based on policies approved by the Board of Administration. State Street Global Advisors (SSGA) manages all underlying investments for CEPPT, which include: Global Equity, Fixed Income, Real Estate Investment Trusts, and Treasury Inflation-Protected Securities.

Custodian and Record Keeper

State Street Bank serves as custodian for the CEPPT. Northeast Retirement Services serves as recordkeeper.

Expenses

CEPPT is a self-funded trust in which participating employers pay for all administrative and investment expenses. Expenses reduce the gross investment return by the fee amount. The larger the expenses, the greater reduction of investment return. Currently, CEPPT expense ratios are 0.25%. This equates to \$2.50 per \$1,000 invested. The expenses consist of administrative expenses borne by CalPERS to administer and oversee the Trust assets, investment management and administrative fees paid to SSGA to manage all asset classes, and recordkeeping fees paid to Northeast Retirement Services to administer individual employer accounts. The expenses described herein are reflected in the net asset value per unit. The expense ratio is subject to change at any time and without prior notification due to factors such as changes to average fund assets or market conditions. CalPERS reviews the operating expenses annually and changes may be made as appropriate. Even if the portfolio loses money during a period, the expenses will still be charged.

What Employers Own

Each employer invested in CEPPT Strategy 1 owns units of this portfolio, which invests in pooled asset classes managed by CalPERS and/or external advisors. Employers do not have direct ownership of the securities in the portfolio.

Price

The value of the portfolio changes daily based upon the market value of the underlying securities. Just as prices of individual securities fluctuate, the portfolio's value also changes with market conditions.

Principal Risks of the Portfolio

The CEPPT fund is a trust fund dedicated to prefunding employer contributions to defined benefit pension plans for eligible state and local agencies. CEPPT is not, however, a defined benefit plan. There is no guarantee that the portfolio will achieve its investment objectives or provide sufficient funding to meet employer obligations.

An investment in the portfolio is not a bank deposit, nor is it insured or guaranteed by the Federal Deposit Insurance Corporation (FDIC), CalPERS, the State of California or any other government agency.

There are risks associated with investing, including possible loss of principal. The portfolio's risk depends in part on the portfolio's asset class allocations and the selection, weighting and risks of the underlying investments. For more information about investment risks, please see the document entitled "CEPPT Principal Investment Risks" located at www.calpers.ca.gov.

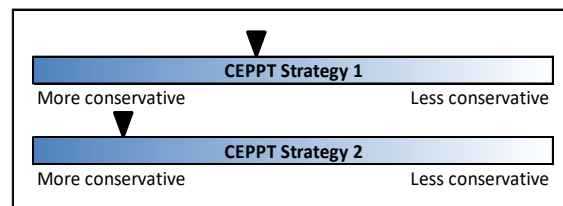
Fund Performance

Performance data shown on page 1 represents past performance and is no guarantee of future results. The investment return and principal value of an investment will fluctuate so that an employer's units, when redeemed, may be worth more or less than their original cost. Current performance may be higher or lower than historical performance data shown. For current performance information, please visit www.calpers.ca.gov and follow the links to California Employers' Pension Prefunding Trust.

CEPPT Strategy Risk Levels

CalPERS offers employers the choice of one of two investment strategies. Projected risk levels among risk strategies vary, depending upon the target asset class allocations. Generally, equities carry more risk than fixed income securities.

Asset Class Target Allocations	Strategy 1	Strategy 2
Global Equity	40%	14%
Fixed Income	47%	73%
Treasury-Inflation Protected Securities	5%	5%
Real Estate Investment Trusts	8%	8%



CEPPT Strategy 2



December 31, 2021

Objective

The CEPPT Strategy 2 portfolio seeks to provide capital appreciation and income consistent with its strategic asset allocation. There is no guarantee that the portfolio will achieve its investment objective.

Strategy

The CEPPT Strategy 2 portfolio is invested in various asset classes that are passively managed to an index. CalPERS periodically adjusts the composition of the portfolio in order to match the target allocations. Generally, equities are intended to help build the value of the employer's portfolio over the long term while bonds are intended to help provide income and stability of principal. Also, strategies invested in a higher percentage of equities seek higher investment returns (but assume more risk) compared with strategies invested in a higher percentage of bonds.

Compared with CEPPT Strategy 1, this portfolio has a lower allocation to equities and a higher allocation to bonds. Historically, funds with a lower percentage of equities have displayed less price volatility and, therefore, this portfolio may experience comparatively less fluctuation of value. Employers that seek greater stability of value, in exchange for possible lower investment returns, may wish to consider this portfolio.

CalPERS Board may change the list of approved asset classes in composition as well as targeted allocation percentages and ranges at any time.

Assets Under Management

As of the specified reporting month-end:

CEPPT Strategy 2	Annual Expense Ratio
\$21,524,796	0.25%

Composition

Asset Class Allocations and Benchmarks

The CEPPT Strategy 2 portfolio consists of the following asset classes and corresponding benchmarks:

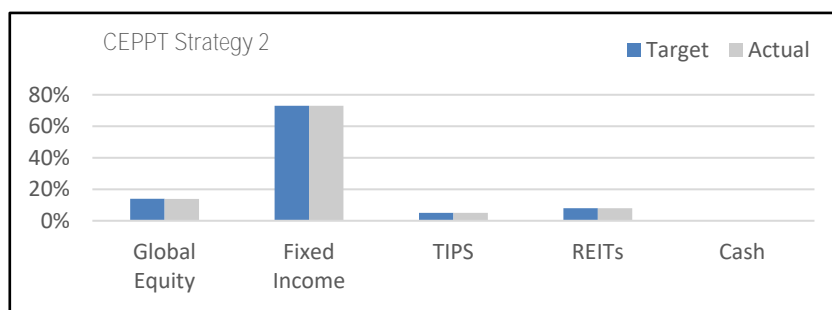
Asset Class	Target Allocation	Target Range	Benchmark
Global Equity	14%	± 5%	MSCI All Country World Index IMI (Net)
Fixed Income	73%	± 5%	Bloomberg US Aggregate Bond Index
Treasury Inflation-Protected Securities ("TIPS")	5%	± 3%	Bloomberg US TIPS Index, Series L
Real Estate Investment Trusts ("REITs")	8%	± 5%	FTSE EPRA/NAREIT Developed Index (Net)
Cash	-	+ 2%	91-Day Treasury Bill

Portfolio Benchmark

The CEPPT Strategy 2 benchmark is a composite of underlying asset class market indices, each assigned the target weight for the asset class it represents.

Target vs. Actual Asset Class Allocations

The following chart shows policy target allocations compared with actual asset allocations as of the specified reporting month-end. CalPERS may temporarily deviate from the target allocation for a particular asset class based on market, economic, or other considerations.



CEPPT Strategy 2 Performance as of December 31, 2021

	1 Month	3 Months	Fiscal YTD	1 Year	3 Years*	5 Years*	10 Years*	Since Inception* (January 1, 2020)
Gross Return ^{1,3}	0.89%	1.78%	1.69%	3.69%	-	-	-	6.21%
Net Return ^{2,3}	0.87%	1.71%	1.57%	3.45%	-	-	-	5.97%
Benchmark Return	0.91%	1.79%	1.69%	3.56%	-	-	-	6.08%
Standard Deviation ⁴	-	-	-	-	-	-	-	-

* Returns for periods greater than one year are annualized.

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December 31, 2021

General Information

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State Street Bank serves as custodian for the CEPPT. Northeast Retirement Services serves as recordkeeper.

Expenses

CEPPT is a self-funded trust in which participating employers pay for all administrative and investment expenses. Expenses reduce the gross investment return by the fee amount. The larger the expenses, the greater reduction of investment return. Currently, CEPPT expense ratios are 0.25%. This equates to \$2.50 per \$1,000 invested. The expenses consist of administrative expenses borne by CalPERS to administer and oversee the Trust assets, investment management and administrative fees paid to SSGA to manage all asset classes, and recordkeeping fees paid to Northeast Retirement Services to administer individual employer accounts. The expenses described herein are reflected in the net asset value per unit. The expense ratio is subject to change at any time and without prior notification due to factors such as changes to average fund assets or market conditions. CalPERS reviews the operating expenses annually and changes may be made as appropriate. Even if the portfolio loses money during a period, the expenses will still be charged.

What Employers Own

Each employer invested in CEPPT Strategy 2 owns units of this portfolio, which invests in pooled asset classes managed by CalPERS and/or external advisors. Employers do not have direct ownership of the securities in the portfolio.

Price

The value of the portfolio changes daily based upon the market value of the underlying securities. Just as prices of individual securities fluctuate, the portfolio's value also changes with market conditions.

Principal Risks of the Portfolio

The CEPPT fund is a trust fund dedicated to prefunding employer contributions to defined benefit pension plans for eligible state and local agencies. CEPPT is not, however, a defined benefit plan. There is no guarantee that the portfolio will achieve its investment objectives or provide sufficient funding to meet employer obligations.

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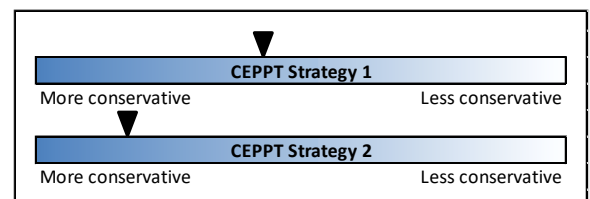
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Asset Class Target Allocations	Strategy 1	Strategy 2
Global Equity	40%	14%
Fixed Income	47%	73%
Treasury-Inflation Protected Securities	5%	5%
Real Estate Investment Trusts	8%	8%



To: Mayor and City Council
From: Helga Cotter, Administrative Services Director
Subject: **Adopt Resolution Designating Authorized Users of the City's Local Agency Investment Fund**

Recommended Motion/Item Description

That the City Council adopts the attached resolution.

Background

The resolution authorizes the City Manager and Administrative Services Director to transfer funds between the City's WestAmerica Bank accounts and the City's account with Local Agency Investment Fund (LAIF) which is maintained by the State Treasurer of the State of California.

Attachments

Resolution

To: Mayor and City Council

From: Irene Borba, Director of Planning and Building

Reviewed by: Craig Middleton, City Manager
Ann Danforth, Assistant City Attorney

Subject: **Resolution Establishing a Committee to Analysis Potential Construction Impacts**

RECOMMENDATION.

Staff recommends that the Council adopt a resolution establishing a temporary committee (6 months) to gather information and analyze potential construction impacts, and to provide recommendations, if warranted, to the Council.

BACKGROUND/DISCUSSION

A discussion at the January 24, 2022, Council and Management Retreat pertained to concerns/complaints that have been voiced by residents regarding impacts from construction activity. The concerns raised generally relate to dust, noise, traffic, and parking impacts from residential construction projects, utility upgrades and CIP projects. Although the quantity of residential construction projects seems somewhat consistent over the past few years, there is nevertheless a sense in the community that impacts are greater.

Staff notes that there are areas in the City where construction projects are more highly concentrated; there are several projects occurring in one area. For example, on Eucalyptus Road there are currently several major projects under construction, and there are more projects for that street currently under review. A high concentration of projects in an area could cause concern and could add to the intensity of noise, traffic and parking impacts experienced by residents.

Additionally, the complexity of projects has increased due in part to the topography of the sites and to the code requirements for building in more challenging areas.

Finally, when considering the experience of residents, it may be worth noting that many more people are working from home due to the COVID-19 pandemic. It is possible that this is causing people to experience longer periods of construction noise and other impacts.

To better understand the magnitude of the construction impacts issue and to explore opportunities for improvement, it is advisable to establish a time-limited committee to research the issue and develop recommendations for the Council to consider.

FISCAL IMPACT

Staff does not foresee fiscal impacts to the city other than staff time to assist the subcommittee.

ENVIRONMENTAL REVIEW

This is not a project under the California Environmental Quality Act (CEQA) no further review under CEQA is required.

CONCLUSION/STAFF RECOMMENDATION

Staff recommends that the Council adopt a resolution establishing a temporary committee (6 months) to analysis potential construction impacts and provide recommendations to Council.

ATTACHMENTS

1. Resolution Establishing a Construction Impact Committee

CITY OF BELVEDERE
RESOLUTION NO. 2022 -05

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE
ESTABLISHING A CITIZENS' COMMITTEE TO EVALUATE AND
MAKE RECOMMENDATIONS TO COUNCIL REGARDING POTENTIAL
IMPACTS FROM RESIDENTIAL CONSTRUCTION & MUNICIPAL
INFRASTRUCTURE PROJECTS**

WHEREAS, the Belvedere City Council and staff have received complaints/concerns related to impacts from residential and municipal infrastructure projects; and

WHEREAS, the complaints regarding construction projects relate primarily to dust, noise, traffic, and parking; and

WHEREAS, on January 24, 2022, the City Council held a public meeting at the Council and Management retreat and discussed the concerns; and

WHEREAS, the City Council determined that the impacts of construction on City residents require further evaluation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Belvedere hereby establishes a Construction Impact Committee, to evaluate potential impacts from construction of residential and municipal infrastructure projects and make recommendations to the Council, as set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Belvedere on February 14, 2022, by the following vote:

AYES: James Campbell, Nancy Kemnitzer, James Lynch, Steve Block, and Mayor Wilkinson
NOES: None
ABSENT: None
RECUSED: None

APPROVED: _____
Sally Wilkinson, Mayor

ATTEST: _____
Beth Haener, City Clerk

EXHIBIT A

Charter for Construction Impact Committee

Purpose

The Construction Impact Committee shall evaluate the impacts of residential and municipal infrastructure projects within the City of Belvedere on residents; report its findings to Council; and make recommendations to Council, as appropriate, regarding opportunities for minimizing adverse impacts to residents.

The Construction Impact Committee shall carry out the following duties:

- (1) Gather and analyze data pertaining to construction projects (e.g., number and types of building permits, number of road closures) and citizen complaints related thereto;
- (2) Evaluate whether residents are currently experiencing greater impacts from projects than in the past because of the complexity of projects, more stringent building code requirements, or topography challenges, etc;
- (3) Evaluate whether the concentration of construction projects is contributing to negative impacts on residents;
- (4) Consider options for reducing construction impacts on Belvedere residents consistent with the City's desire to continuously improve its environment;
- (5) Report the findings of its analysis to Council and, if applicable, make recommendations to Council on strategies that could mitigate the impacts of construction projects on residents.

Reporting

The Committee shall report its findings and recommendations to Council within six months after its first meeting unless such time shall have been extended by Council.

Duration:

Unless Council directs otherwise, the Committee will disband after its report to Council.

Meetings

The Committee shall meet once each month during the first week of the month at a time set by the chair after the members are polled by City staff.

Members

Council Liaisons:

Jim Lynch and Steve Block shall be non-voting Council liaisons to the Committee charged with guiding the committee's deliberations to ensure they are responsive to the purposes of this Charter.

Public Members:

The Council delegates to the Mayor the selection of the members of the public for the Committee, of which at least two must be members of the building or development business active in Belvedere. At least three of the Public Members of the Committee shall be Belvedere residents.

Ex-Officio:

The City Manager

The Building Official, the Police Chief and the Director of Planning shall participate in the Committee's deliberations at the invitation of the Chair.

Procedure:

The Committee shall follow Roberts' Rules of Order unless modified by this Charter.

Special Quorum Rule:

A quorum shall require a majority of the Public Members who are Belvedere Residents.

Special Voting Rule:

A motion shall fail unless it receives the support of a majority of the Public Members who are Belvedere residents.

Funding:

No budget appropriation shall be made for the Committee. Incidental expenses not to exceed \$2,500 may be paid by the City in connection with the Committee's work if approved by the Chair and the Mayor.

Brown Act Committee

The Construction Impact Committee is subject to the requirements of the Brown Act (Govt. Code sec. 54950) and its meetings shall be open to the public.

CITY OF BELVEDERE

RESOLUTION NO. 2022-04

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE
DESIGNATING AUTHORIZED USERS OF THE CITY'S LOCAL AGENCY
INVESTMENT FUND**

BE IT RESOLVED that the following individuals are hereby authorized to transfer funds between the City's WestAmerica Bank general and payroll accounts and the City's account with the Local Agency Investment Fund (LAIF) that is maintained by the State Treasurer of the State of California:

Craig Middleton, City Manager
Helga Cotter, Administrative Services Director

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Belvedere on February 14, 2022 by the following vote:

AYES: James Campbell, Nancy Kemnitzer, James Lynch, Steve Block, and Mayor Wilkinson
NOES: None
ABSENT: None
RECUSED: None

APPROVED: _____
Sally Wilkinson, Mayor

ATTEST: _____
Beth Haener, City Clerk

SCHEDULED ITEMS

**BELVEDERE CITY COUNCIL
FEBRUARY 14, 2022**

To: Mayor and City Council

From: Beth Haener, City Clerk

Reviewed by: Craig Middleton, City Manager

Subject: A Resolution Authorizing the Continuation of Remote Public Meetings pursuant to Assembly Bill 361

RECOMMENDATION

That the City Council adopt a Resolution authorizing the continued use of remote meetings pursuant to Assembly Bill 361 and give direction to staff as necessary.

BACKGROUND

At the October 11, 2021, regular meeting, the City Council adopted Resolution 2021-41 authorizing the continuation of virtual public city meetings during the continuing state of emergency relating to the COVID1-19 pandemic for the 30-day period beginning October 11, 2021, and making the required findings pursuant to AB 361. Subsequently, at the November 8, 2021, regular meeting, the November 29, 2021, special meeting, and the January 10, 2022, regular meeting, the City Council adopted Resolution 2021-44, 2021-45, and Resolution 2022-03 allowing meetings to be held via teleconference.

In order to continue to hold remote meetings, the City Council must continue to declare every 30 days that (i) the state of emergency continues to be in place; and (ii) State or local officials continue to impose or recommend measures to promote social distancing; or (iii) as a result of the declared emergency, meeting in-person would result in an imminent risk to the health or safety of attendees.

The attached resolution makes the findings to confirm the conditions still exist to allow the continuation of virtual public meetings pursuant to AB 361 for the City Council and on behalf all lower legislative bodies in the City.

The attached resolution anticipates and authorizes remote meetings including hybrid meetings held both via teleconference and in-person. This resolution will allow members of the public to safely observe and participate in local government teleconference meetings during the continued pandemic.

ENVIRONMENTAL DETERMINATION

A meeting format determination under AB 361 is not a “project” under the California Environmental Quality Act, because it does not involve an activity that has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Pub. Res. Code § 21065).

CORRESPONDENCE

As of the writing of this report, no correspondence has been received regarding this agenda item.

RECOMMENDED ACTION

That the City Council adopt the Resolution authorizing the continued use of remote meetings pursuant to Assembly Bill 361 and give direction to staff as necessary.

ATTACHMENTS

1. Resolution.

CITY OF BELVEDERE

RESOLUTION NO. 2022-06

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE
AUTHORIZING THE CONTINUATION OF VIRTUAL PUBLIC CITY MEETINGS
DURING THE CONTINUING STATE OF EMERGENCY RELATING TO THE COVID-
19 PANDEMIC PURSUANT TO ASSEMBLY BILL 361**

WHEREAS, on March 4, 2020 Governor Newsom declared a State of Emergency pursuant to Government Code section 8625 due to the COVID-19 pandemic, which State of Emergency remains in effect; and

WHEREAS, State Executive Orders N-25-20 and N-29-20, suspended certain provisions of the Brown Act (Gov. Code, §§ 54950 *et seq.*) to allow public meetings to be held virtually without opening a physical space to the public, which provisions expired September 30, 2021; and

WHEREAS, effective September 16, 2021, Assembly Bill 361, allows local agencies to continue to hold remote public meetings through December 31, 2023 when there is a State-declared emergency, and when state or local officials have imposed or recommended measures to promote social distancing or as a result of the declared emergency, meeting in-person would result in an imminent risk to the health or safety of attendees; and

WHEREAS, the Government Code section 8625 State of Emergency remains in effect; and

WHEREAS, state and local officials continue to impose and recommend measures to promote social distancing due to the continued rates of transmission of the COVID-19 virus and variants as follows:

- a. The July 28, 2021 California Department of Public Health Guidance for the Use of Facial Coverings recommending universal masking indoors statewide to promote social distancing is still in effect; and
- b. The Marin County Public Health Department continues to recommend the use of masking indoors.
- c. On September 22, 2021, the Marin County Director of Health and Human Services, Benita McLarin, issued a letter recommended continued social distancing for governmental meetings, including the use of video and teleconference meetings.

WHEREAS, public meetings involve many people in shared indoor spaces, in close proximity for hours, and City meetings rooms have limited mechanical and natural ventilation, creating a health risk for members of the public at this time; and

WHEREAS, as a result of the continuing declared emergency, public meetings in-person would result in an imminent risk to the health or safety of attendees.

WHEREAS, a meeting format determination under AB 361 is not a “project” under the California Environmental Quality Act, because it does not involve an activity that has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Pub. Res. Code § 21065.)

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Belvedere based on the findings set forth above and incorporated herein, that public meetings of the City’s legislative bodies shall be held using remote technology in compliance with the requirements of Government Code section 54953(e) and all other applicable laws for thirty (30) days following the date of adoption of this Resolution.

PASSED AND ADOPTED at a special meeting of the City Council of the City of Belvedere on February 14, 2022, by the following vote:

AYES: James Campbell, Nancy Kemnitzer, James Lynch , Steve Block, and Mayor Wilkinson
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED: _____
Sally Wilkinson, Mayor

ATTEST: _____
Beth Haener, City Clerk

CONSENT CALENDAR

**BELVEDERE CITY COUNCIL
FEBRUARY 14, 2022**

To: Mayor and City Council

From: Beth Haener, City Clerk

Subject: **Proclamation honoring Belvedere-Tiburon Library Director Deborah Mazzolini upon Retirement**

Recommended Motion/Item Description

It is recommended the Council adopt the attached proclamation commending Deborah Mazzolini for her outstanding contributions to the community and as Library Director of the Belvedere-Tiburon Library.

Attachments

Proclamation

PROCLAMATION

The Belvedere City Council is pleased to honor

DEBORAH MAZZOLINI UPON RETIREMENT FROM THE ROLL OF BELVEDERE- TIBURON'S LIBRARY DIRECTOR

WHEREAS, Deborah Mazzolini was hired by the Founders of the Belvedere-Tiburon Library in 1996 to be the first Director of the new library located on 1501 Tiburon Boulevard;

WHEREAS, Deborah Mazzolini developed the initial collection of the Belvedere-Tiburon Library and has supervised its growth over the last 25 years;

WHEREAS, Deborah Mazzolini has provided outstanding leadership in achieving the mission of the Belvedere-Tiburon Library; namely, to provided library services that do, and will continue to, encourage and support a literate, enlightened and cultured community;

WHEREAS, Deborah Mazzolini has established the Belvedere-Tiburon Library to become an integral and inclusive community center of learning for all of the residents of Belvedere and Tiburon;

WHEREAS, Deborah Mazzolini has promoted community access to new technologies for all ages;

WHEREAS, Deborah Mazzolini has developed, nurtured and retained an outstanding team of staff members;

WHEREAS, Deborah Mazzolini has worked with the Library Agency Trustees, Library Foundation, and other community volunteers and civic leaders, to secure the future of the Belvedere-Tiburon Library in the best interests of the communities, including championing the physical expansion of the premises;

WHEREAS, Deborah Mazzolini has performed magnificently during the COVID pandemic to keep the Belvedere-Tiburon Library open and operating, as an intellectual lifeline and antidote to isolation, for the benefit of the residents of Belvedere and Tiburon;

WHEREAS, after 25 years of Deborah Mazzolini's leadership and inspiration, the Belvedere-Tiburon Library embodies the community spirit, intellectual integrity, and cultural awareness;

NOW, THEREFORE, THE BELVEDERE CITY COUNCIL, AND EACH OF US, WISH TO EXPRESS OUR DEEP APPRECIATION FOR YOUR PROFESSIONAL SERVICE TO OUR COMMUNITY.

Signed this 14th day of February, 2022.

Sally Wilkinson, Mayor

To: Mayor and City Council

From: Irene Borba, Director of Planning and Building

Reviewed by: Craig Middleton, City Manager

Subject: **Report to City Council Pursuant to Government Code Section 65858 (d) pertaining to the Urgency Ordinance of the City of Belvedere Adopting Title 22 Objective Design and Development Standards (ODDS) For Qualifying Multi-Family and Mixed-Use Projects**

RECOMMENDATION.

Staff recommends that the Council accept the report/update pursuant to Government Code Section 65858(d) pertaining to the City of Belvedere Urgency Ordinance Adopting Title 22 Objective Design and Development Standards (ODDS) for Qualifying Multi-Family and Mixed-Use Projects.

BACKGROUND/DISCUSSION

Government Code Section 65858 (d) requires that ten (10) days prior to the expiration of an urgency (interim) ordinance or any extension of said ordinance, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

On January 27, 2022, City Council adopted an Urgency Ordinance (Ordinance No. 2022-02) that established temporary processing rules and objective standards to establish Objective Design and Development Standards (ODDS) for qualifying Multi-Family and Mixed-Use projects.

Currently, Staff is scheduling a meeting of the Planning Commission’s ODDS subcommittee to discuss a permanent ODDS ordinance. After obtaining policy guidance from the subcommittee, staff will undertake the following next steps:

- Draft a proposed permanent ordinance adding the ODDS standards to the Municipal Code and making appropriate amendments to other Municipal Code sections to create a clear process for ODDS-eligible application.
- Submit the draft ordinance to the Planning Commission to review and make recommendations to the City Council.

- Submit the draft ordinance to the City Council, with the Planning Commission's input and recommendations, for introduction and first reading
- Return the draft ordinance to the City Council, with any requested changes, for second reading and adoption.

Either the Planning Commission or the City Council may require additional meetings to complete its role in the extension process.

Staff Recommendation

Staff recommends that the Council accept the report/update pursuant to Government Code Section 65858(d).

ATTACHMENT

1. Urgency Ordinance (Ordinance No 2022.-02) Adopting Title 22 Objective Design and Development Standards (ODDS) For Qualifying Multi-Family and Mixed-Use Projects.

CITY OF BELVEDERE
ORDINANCE NO. 2022-02

**AN URGENCY ORDINANCE OF THE CITY OF BELVEDERE FOR AMENDMENTS
TO THE BELVEDERE MUNICIPAL CODE ADOPTING A NEW TITLE TO THE
MUNICIPAL CODE – TITLE 22 FOR OBJECTIVE, DESIGN & DEVELOPMENT
STANDARDS (ODDS) FOR QUALIFYING MULTI-FAMILY & MIXED-USE
PROJECTS**

WHEREAS, the Housing Accountability Act (HAA), Government Code Section 65589.5, establishes limits to a local government’s ability to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need; and

WHEREAS, pursuant to Government Code section 66300, “Objective Design Standard” means a design standard that involves no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development application or proponent and the public official before submittal of an application; and

WHEREAS, the city of Belvedere was awarded \$160,000 in state funding established by California Senate Bill 2, the 2018 building homes and Jobs Act (SB2), for actions intended to increase housing in California; and

WHEREAS, the City staff participates in the Marin County Planning Directors Housing Working Group, comprising the planning director of each Marin jurisdiction and other planning professionals, and the goal of the working group is to look for ways to collaborate on housing issues, share information regarding best practices, and stay up to date with housing legislation and other legal requirements related to housing; and

WHEREAS, the Housing Working Group applied for SB 2 grants as a group effort to address several housing items including the development of objective design and development standards; and

WHEREAS, the Housing Working Group works together with a consultant team led by Opticos Design on the development of the objective design and development standards; and

WHEREAS, the City formed a subcommittee of the Planning Commission to help guide the development of the objective design and development standards and provided collective comments of a representative group of the Planning Commission and made recommendations regarding the implementation of the objective design standards in the City of Belvedere; and

WHEREAS, the City of Belvedere Objective Design and Development Standards (Title 22) address current and future state housing legislation that limit jurisdictions’ discretion related

to the approval or denial of multi-family housing, and further the city stated housing policies and goals; and,

WHEREAS, the amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, which states that project is exempt from CEQA when the activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant impact to the environment and when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, based on the record, the City Council finds that the ordinance amendments are consistent with and facilitate the implementation of the Housing Element and the General Plan; and

WHEREAS, the Planning Commission discussed the proposed Objective Design and Development Standards (“ODDS Toolkit”) on June 16, 2020, November 10, 2020, April 28, 2021, and November 16, 2021; and

WHEREAS, the subcommittee discussed the proposed Objective Design and Development Standards (“ODDS Toolkit”) on May 24, 2021, August 16, 2021, November 8, 2021, December 14, 2021, and January 18, 2022; and

WHEREAS, the City’s natural beauty, including the hills and the bay, is a uniquely valuable public resource and the City has an interest in protecting the community, and the ability to reasonably regulate orderly development of multi-family and mixed-use is desirable, and unregulated or disorderly development represents an increasing threat to the health, welfare and safety for the community; and

WHEREAS, state laws include no objective zoning design standards; and

WHEREAS, state law allows a local agency to adopt an ordinance to implement Objective Design & Development Standards, thus the City must craft an ordinance that includes the restrictions and requirements of that statute while reflecting the City’s health, safety and public welfare policies to the extent possible; and

WHEREAS, the City of Belvedere (the “City”) has implemented land use policies, based on the City’s General Plan & Housing Element, which provide an overall vision for the community and balance important community needs, and the City seeks to ensure multi-family housing projects are consistent with those policies; and

WHEREAS, potential developers have indicated their interest in submitting applications that would be subject to the objective standard requirements, and there is an immediate need for the City to establish objective standards for eligible projects as soon as possible; and

WHEREAS, the vital public interests served by the HAA and the City’s existing land use policies mandate that the City update its regulatory scheme as quickly as possible

so that potential developers and members of the community have a clear understanding of the applicable requirements; and

WHEREAS, the proposed amendments to the City of Belvedere Municipal Code local policies are within the scope of the state law; and

WHEREAS, on January 27, 2022, the City Council considered the following amendment to the Belvedere Municipal Code for the purpose of amending its local regulatory requirements pertaining to multi-family and mixed -use developments in a manner that complies with the new state law and is consistent with California government code sections 65852. 21 and 66411. 7 as amended; and

WHEREAS, California Government Code section 65858 authorizes the city to adopt an interim urgency measure by a four-fifths vote where necessary to protect the public health, safety, and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance; and

WHEREAS, because any interim urgency measure adopted pursuant to Government Code section 65858 shall be of no further force in effect 45 days from the date of adoption unless extended by the legislative body and during the effective term of the urgency ordinance, the City staff intends to undertake further study and present its recommendations to the City Council regarding permanent revisions to the City's requirements regarding two-unit residential developments and urban lot splits to achieve reasonable consistency with the goals and policies of the city's general plan, and California planning and zoning law; and

WHEREAS, the City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this ordinance be enacted as an urgency ordinance pursuant to Government Code section 65858 and take effect immediately upon adoption, in that specific laws are already in effect, and therefore this ordinance is necessary for the immediate preservation of the public peace, health safety and welfare; and

NOW, THEREFORE, the City Council of the City of Belvedere does hereby ordain as follows:

SECTION 1. FINDINGS.

- a. All the facts and recitals above are true and correct, incorporated herein and made a part hereof such that there exists a current and immediate threat to the public health, safety and welfare require an immediate implementation of an urgency ordinance to regulate residential development projects, subdivisions and site developments in the City of Belvedere.
- b. The urgency ordinance is necessary for the immediate preservation of the public peace, health, and safety, because the design and construction of multi-family and mixed-use projects, without adequate standards can cause: land use and site development conflicts and incompatibilities including public safety, visual, privacy, acoustic and aesthetic impacts which would negatively impact the public welfare and the unique quality and character of the City.

- c. Based on the recent amendments to state law with respect to the housing, there is a need for the City to update its current codes.
- d. This Ordinance is not a project under the California Environmental Quality Act (CEQA). (Gov. Code §§ 65852.21(j)). Therefore, no further review under CEQA is required.


SECTION 2. AMENDMENT. A new Title 22 Objective Design & Development Standards (ODDS) is hereby added to the Belvedere Municipal Code (BMC) to read as set forth in **Exhibit A** to this Ordinance, which is hereby incorporated as though set forth in full herein.

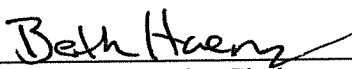
SECTION 3. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, it's for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this ordinance are declared to be severable.

SECTION 4. EFFECTIVE DATE, URGENCY ORDINANCE. This Ordinance Shall take effect immediately upon its passage by a four-fifths vote of the City Council. Within 15 days following its passage, a summary of the Ordinance shall be published with the names of those City Council members voting for and against the Ordinance, and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance.

INTRODUCED AND ADOPTED AT A PUBLIC HEARING at a special meeting of the Belvedere City Council on January 27, 2022, by the following vote:

AYES: James Campbell, Nancy Kemnitzer, James Lynch, Steve Block, and Mayor Wilkinson
 NOES: None
 ABSENT: None
 RECUSED: None

APPROVED: 
 Sally Wilkinson, Mayor

ATTEST: 
 Beth Haener, City Clerk

To: Mayor and City Council

From: Irene Borba, Director of Planning and Building

Reviewed by: Craig Middleton, City Manager

Subject: **Report to City Council Pursuant to Government Code Section 65858 (d) pertaining to the Urgency Ordinance of the City of Belvedere Amending Title 18 – Subdivisions Establishing Regulations for the Subdivision and Development of Qualified Senate Bill 9 (SB9) Properties and Amending Title 19- Zoning of the Belvedere Municipal Code to Comply with Senate Bill 9 (SB9)**

RECOMMENDATION.

Staff recommends that the Council accept the report/update pursuant to Government Code Section 65858(d) pertaining to the Urgency Ordinance of the City of Belvedere Amending Title 18 – Subdivisions Establishing Regulations for the Subdivision and Development of Qualified Senate Bill 9 (SB9) Properties and Amending Title 19- Zoning of the Belvedere Municipal Code to Comply with Senate Bill 9 (SB9).

BACKGROUND/DISCUSSION

Government Code Section 65858 (d) requires that ten (10) days prior to the expiration of an urgency (interim) ordinance or any extension of said ordinance, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

On January 10, 2022, City Council adopted an Urgency Ordinance (Ordinance No. 2022-01) that established temporary processing rules and objective standards to govern applications under SB 9 (signed into law on September 16, 2021, and effective January 1, 2022).

Currently, Staff is scheduling a meeting of the Planning Commission’s ODDS subcommittee to discuss a permanent SB 9 ordinance. After obtaining policy guidance from the subcommittee, staff will undertake the following next steps:

- Draft a proposed permanent ordinance adding SB 9 standards and processes to the Municipal Code and making appropriate amendments to other Municipal Code sections to create a clear process for SB 9-eligible application.

- Submit the draft ordinance to the Planning Commission to review and make recommendations to the City Council.
- Submit the draft ordinance to the City Council, with the Planning Commission's input and recommendations, for introduction and first reading
- Return the draft ordinance to the City Council, with any requested changes, for second reading and adoption.

Either the Planning Commission or the City Council may require additional meetings to complete its role in the extension process.

Staff Recommendation

Staff recommends that the Council accept the report/update pursuant to Government Code Section 65858(d).

ATTACHMENT

1. Urgency Ordinance (Ordinance No 2022.-01) Establishing Regulations for Qualified SB 9 Subdivisions & Development.

CITY OF BELVEDERE

ORDINANCE NO. 2022-01

**AN URGENCY ORDINANCE OF THE CITY OF BELVEDERE AMENDING
BELVEDERE MUNICIPAL CODE TITLE 18 – SUBDIVISIONS ESTABLISHING
REGULATIONS FOR THE SUBDIVISION AND DEVELOPMENT OF QUALIFIED
SENATE BILL 9 (SB 9) PROPERTIES AND AMENDING TITLE – 19 ZONING TO
COMPLY WITH SENATE BILL 9 (SB 9)**

WHEREAS, the State of California has declared a severe housing crisis exists in the state with the demand for housing exceeding the supply; and

WHEREAS, on September 16, 2021, Senate Bill 9 was approved by the Governor of the State of California and filed with the Secretary of State, amending Section 66452.6 of the California Government Code and adding to the Government Code Sections 65852.21 and 66411.7, allowing additional housing units on properties within single family zones and providing for parcel map approval of an urban lot split; and

WHEREAS, the changes made to the Government Code by Senate Bill 9 are effective January 1, 2022; and

WHEREAS, Senate Bill 9 requires cities and counties, including the City of Belvedere, to ministerially approve a parcel map for an urban lot split and/or a proposed housing development containing a maximum of two residential units within a single-family residential zone, if the two-unit or subdivision project meets certain statutory criteria and Senate Bill 9 specifies that proposed projects and subdivisions cannot be proposed in certain prohibited locations under Government Code Section 65913.4(a)(6)(B)-(K) such as lands under conservation easement, and must meet certain standards if located in other areas, such as an earthquake fault zone, a federally designated flood plain, and a high fire hazard severity zone as defined under state law; and

WHEREAS, Senate Bill 9 further restricts the standards and regulations that local agencies, including the City of Belvedere, may impose on qualifying two-unit or subdivision projects, for example local agencies may impose only objective zoning, subdivision, and design standards that do not conflict with the statutes, but such standards must not physically preclude a unit size of 800 square feet; and in addition, the state law permits a local agency to deny a proposed two-unit or subdivision project only if the agency's Building Official Makes a written finding based on preponderance of the evidence that the proposed project would have a specific, adverse impact upon public health and safety or the physical environment, which is a very high standard for municipalities to meet under the statute; and

WHEREAS, the City's natural beauty, including the hills and the bay is a uniquely valuable public resource and the city has interests in protecting the community and to be able to reasonably regulate orderly development of single-family residential construction and

subdivision projects as permitted by Senate Bill 9 is desirable and unregulated or disorderly development represents an increasing threat to the health, welfare and safety for the community; and

WHEREAS, the default standards contained in the new state law include no objective zoning, subdivision, and design standards; and

WHEREAS, state law allows a local agency to adopt an ordinance to implement the provisions in Senate Bill 9; and

WHEREAS, Senate Bill 9 specifically authorizes local agencies to impose objective zoning, subdivision and design standards consistent with the bill's provisions, and to adopt an ordinance to implement its provisions and Senate Bill 9 further provides that such ordinances are not considered a "project" under the California Environmental Quality Act (CEQA); and

WHEREAS, the City of Belvedere (the "City") has implemented land use policies, based on the City's General Plan & Housing Element, which provide an overall vision for the community and balance important community needs, and the City seeks to ensure Senate Bill 9 projects are consistent with those policies; and

WHEREAS, the proposed amendments to the City of Belvedere Municipal Code implement the requirements of state law and add local policies that are within the scope of the state law; and

WHEREAS, on January 10, 2022, the City Council considered the following amendment to the zoning ordinance for the purpose of amending its local regulatory requirements pertaining to single family home developments and subdivisions in a manner that complies with the new state law and it's consistent with California government code sections 65852. 21 and 66411. 7 as amended; and

WHEREAS, California Government Code section 65858 authorizes the city to adopt an interim urgency measure by a four-fifths vote where necessary to protect the public health, safety, and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance; and

WHEREAS, because any interim urgency measure adopted pursuant to Government Code section 65858 shall be of no further force in effect 45 days from the date of adoption unless extended by the legislative body and during the effective term of the urgency ordinance, the city staff intends to undertake further study and present its recommendations to the City Council regarding permanent revisions to the city's requirements regarding two-unit residential developments and urban lot splits to achieve reasonable consistency with the goals and policies of the city's general plan, and California planning and zoning law; and

WHEREAS, the City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this ordinance be enacted as an urgency ordinance pursuant to Government Code section 65858 and take effect immediately upon

adoption, in that Senate Bill 9 is already in effect, and therefore this ordinance is necessary for the immediate preservation of the public peace, health safety and welfare; and

WHEREAS, because this ordinance is intended to implement the provisions of Government Code sections 65852.21 and 66411.7, this ordinance is not considered a project under the California Environmental Quality Act (CEQA) and so requires no review under CEQA, as provided in Government Code Sections 65852.21(j) and 66411.7(n); and

WHEREAS, on January 10, 2022, the City Council held a duly noticed public hearing to consider this ordinance.

NOW, THEREFORE, the City Council of the City of Belvedere does hereby ordain as follows:

SECTION 1. FINDINGS.

- a. All the facts and recitals above are true correct, incorporated herein and made a part hereof such that there exists a current and immediate threat to the public health, safety and welfare require an immediate implementation of an urgency ordinance to regulate residential development projects, subdivisions and site developments in the City of Belvedere.
- b. The urgency ordinance is necessary for the immediate preservation of the public peace, health, and safety, because the subdivision of lots end design and construction of single family residences, duplexes and accessory dwelling units pursuant to Senate Bill 9 without adequate standards can cause: land use and site development conflicts and incompatibilities including public safety, visual, privacy, acoustic and aesthetic impacts which would negatively impact the public welfare and the unique quality and character of the City.
- c. Based on the recent amendments to state law with respect to the regulation of SB9 units and lot subdivisions, there is a need for the City to update its current codes.
- d. This Ordinance is not a project under the California Environmental Quality Act (CEQA). (Gov. Code §§ 65852.21(j) and 66411.7). Therefore, no further review under CEQA is required.

SECTION 2. AMENDMENT. A new Chapter 18.27 “Urban Lot Splits” and Chapter 19.77 “Two-Unit Developments” are hereby added to the Belvedere Municipal Code (BMC) to read as set forth in **Exhibit A** to this Ordinance, which is hereby incorporated as though set forth in full herein.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, it's for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph sentence, clause or phrase of this Ordinance irrespective of the fact that one or more

sections, subsections, subdivisions, paragraphs, sentences or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this ordinance are declared to be severable.

SECTION 4. EFFECTIVE DATE, URGENCY ORDINANCE. This Ordinance Shall take effect immediately upon its passage by a four-fifths vote of the City Council. Within 15 days following its passage, a summary of the Ordinance shall be published with the names of those City Council members voting for and against the Ordinance, and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance.

INTRODUCED AND ADOPTED AT A PUBLIC HEARING at a regular meeting of the Belvedere City Council on January 10, 2022, by the following vote:

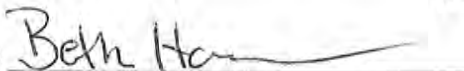
AYES: James Campbell, Nancy Kemnitzer, Jim Lynch, Steve Block, and Mayor Sally Wilkinson
NOES: None
ABSENT: None
RECUSED: None

APPROVED:



Sally Wilkinson, Mayor

ATTEST:



Beth Haener, City Clerk

EXHIBIT A

Chapter 18.27 “Urban Lot Splits” is hereby added to the Belvedere Municipal Code to read in its entirety as follows:

18.27.010 Purpose & Intent.

- A. The purpose of this Chapter is to establish objective zoning standards and regulations to govern the development of qualified Senate Bill 9 (SB 9) subdivisions and development projects in residential zoned properties within the City of Belvedere. The establishment of these regulations will result in the orderly subdivision and development of qualified Senate Bill projects while ensuring that the new units are consistent with the City’s character and do not create any significant impacts with regards to public infrastructure or public safety. The regulations are established to implement the requirements under as reflected in Government Code Section 65852.21 and 66411.7.
- B. The provisions of this Chapter shall be the primary regulations for the subdivisions of land for and development of SB 9 dwelling units. To the extent that an aspect of the subdivision of land for or development of SB9 dwelling units is not addressed by the Chapter, other provisions of the Municipal Code shall apply. In the event of a conflict between this Chapter and another provision of the Municipal Code, as it applies to the subdivision of land for or development of SB 9 units, this Chapter shall prevail.

18.27.020 Definitions. For purposes of this Chapter and Chapter 19.77, the following definitions apply:

- A. “A person acting in concert with the owner” means a person that has a common ownership or control of the subject parcel with the owner of the adjacent parcel, a person acting on behalf of, acting for the predominant benefit of, acting on the instructions of, or actively cooperating with, the owner of the parcel being subdivided.
- B. “Adjacent parcel” means any parcel of land that is (1) touching the parcel at any point; (2) separated from the parcel at any point only by a public right of way, private street or way, or public or private utility, service, or access easement; or (3) separated from another parcel only by other real property which is in common ownership or control of the applicant.
- C. “Car share vehicle” means a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization and provides hourly or daily service.
- D. “Common ownership or control” means property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or a family member of an investor if the entity owns 10 percent or more of the interest in the property.

- E. “Very low-income households” has the meaning set forth in Health & Safety Code Section 50105.
- F. “Lower income household” - has the meaning set forth in Health and Safety Code Section 50079. 5.
- G. “Moderate income household” has the meaning set forth in Health and Safety Code Section 50093.
- H. “Sufficient for separate conveyance” means that each attached or adjacent dwelling unit is constructed in a manner adequate to allow for the separate sale of each unit in a common interest development as defined in Civil Code Section 1351 (including a residential condominium, planned development, stock cooperative, or community apartment project) or into any other ownership type in which the dwelling units may be sold individually.
- I. “Two-Unit Development” means a development that proposes no more than two units or proposes to add one new unit to one existing unit and that meets all the criteria and standards set forth in Chapter 19.77.
- J. “Urban Lot Split” means a subdivision of an existing parcel into no more than two separate parcels that meets all the criteria and standards set forth in this Chapter.

18.27.30 Permit Application and Procedures – Urban Lot Splits.

- A. Application and Review Authority. An application for an Urban Lot Split shall be made by the property owner and filed with the Planning Department on a form prescribed by the Director of Planning and Building, containing such information as reasonably requested by the Director of Planning and Building, and accompanied by the appropriate fee.
- B. Ministerial Review. For applications that satisfy the requirements of this Chapter, the Director of Planning and Building or designee shall approve a parcel map as a ministerial permit, without discretionary review, public hearing, or Design Review. The decision shall be final and shall state in writing the reasons for approval or denial.
- C. Review Timing. The City shall act upon an application for an Urban Lot Split within the time limits provided by the Subdivision Map Act.

18.27.040 Qualifying Criteria for Urban Lot Splits. Applications for Urban Lot Splits must meet the following requirements. No exceptions to the standards in this section shall be requested or granted.

- A. The parcel is located within a single-family residential zone (R-1L, R-1C, R1-W, R-15).
- B. The parcel being subdivided is not located on a site that is any of the following:
1. Either prime farmland or farmland of statewide importance as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by local ballot measure that was approved by the voters of that jurisdiction.
 2. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
 3. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by the City of Belvedere, pursuant to subdivision(b) of Section 51179 of the Government Code, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
 4. A hazardous waste site but that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
 5. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, Element complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health & Safety Code), And by the building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.
 6. Within a special flood hazard area subject to inundation by the 1% annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent can satisfy all applicable federal qualifying criteria to provide that the site satisfies this

subparagraph, the City of Belvedere shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standards or action adopted by the City of Belvedere that is applicable to that site. The development may be located on a site described in this subparagraph if either of the following are met (1) the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the City of Belvedere; or (2) the site meets Federal Emergency Management Agency requirements necessary to meet minimum floodplain management criteria of the National Flood Insurance Program Pursuant to Part 59 commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter 1 of Title 44 of the Code of Federal Regulations.

7. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency unless, the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent can satisfy all applicable federal qualifying criteria to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the City shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the City of Belvedere that is applicable to that site.
8. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the Federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.
9. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
10. Lands under conservation easement.

- C. The lot split shall result in no more than two parcels (one net new parcel) of approximately equal lot area, provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision and in no instance shall any resulting lot be smaller than 1,200 square feet in area.

- D. The resulting parcels shall comply, with the lot size, frontage, width, and front & rear requirements of Title 19 – Zoning, except that the Director of Planning and Building will grant the minimum necessary exceptions to any requirement that would physically preclude the original parcel from being subdivided into two parcels that are not smaller than 1,200 square feet, so long as one of the parcels is no smaller than 40 percent of the lot area of the parcel proposed for subdivision.
- E. The proposed Urban Lot Split would not require demolition or alteration of any of the following types of housing:
 - 1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low- or very low-income.
 - 2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - 3. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
 - 4. Housing that has been occupied by a tenant in the last three years.
- F. The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or within a site that is designated or listed as a City of Belvedere landmark or historic property or historic district pursuant to a City of Belvedere ordinance.
- G. The parcel is not located within a High Sensitivity area as shown on the General Plan Prehistoric Sensitivity Maps found in the Technical Appendix of the General Plan, which parcels are City of Belvedere historic properties.
- H. The parcel being subdivided was not created by an Urban Lot Split as provided in this section.
- I. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an Urban Lot Split as provided in this section.
- J. The development proposed on the parcels complies with all objective zoning standards, objective subdivision standards, and objective design review standards applicable to the parcel as provided in the zoning district in which the parcel is located; provided, however, that:
 - 1. The application of such standards shall be modified by the Director of Planning and Building if the standards would have the effect of physically precluding the construction of two units on either of the resulting parcels created pursuant to this

chapter or would result in a unit size of less than 800 square feet. Any modifications of development standards shall be the minimum modifications necessary to avoid physically precluding two units of 800 square feet on each parcel.

2. Notwithstanding subsection (9)(i) above, required rear and side yard setbacks shall equal four feet,¹ except that no setback shall be required for an existing legally created structure, or a structure constructed in the same location and to the same dimensions as an existing legally created structure.
- K. Each resulting parcel shall have access to, provide access to or adjoin the public right-of-way. Each resulting parcel shall be required to meet the design standards of Title 18.08 of the Belvedere Municipal Code for subdivisions. Additionally, lot lines shall be:
1. Straight lines unless there is a conflict with existing improvements or the natural environment;
 2. Generally parallel to the street when facing a street OR be at right angles perpendicular to the street on the straight streets, or radial to the street on curved streets;
 3. Within appropriate physical locations (e.g., does not bisect buildings);
 4. Contiguous with existing zoning boundaries.
 5. Lot lines shall not result in an accessory building or accessory use on a lot without a main building on the same lot.
- L. Proposed adjacent or connected dwelling units shall be permitted if they meet building and safety standards and are designed sufficient to allow separate conveyance. The proposed dwellings shall provide a separate gas, electric and water utility connection directly between each dwelling unit and the utility.
- M. No more than two (2) units may be located on any lot created through an Urban Lot Split, including primary dwelling units, accessory dwelling units, junior accessory dwelling units, density bonus units, and units created as a Two-Unit Development.
- N. Parking. One parking space shall be required per unit constructed on parcel created through an Urban Lot Split, except that no parking may be required when:
1. The parcel is located within one-half mile walking distance of either a stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or

¹ Localities may allow a smaller setback if desired, but the *required* side and rear setbacks can be no more than stated in this provision.

2. There is a designated parking area for one or more car-share vehicles within one block of the parcel.
- O. Compliance with Subdivision Map Act. The Urban Lot Split shall conform to all applicable objective requirements of the subdivision map act (Government Code Section 66410 et seq.), except as otherwise expressly provided in Government Code Section 66411.7. Notwithstanding Government Code Section 66411.1, no dedications of rights of way or the construction of off-site improvements may be required as a condition of approval for an urban lot split, although easements may be required for the provision of public services and facilities.
 - P. The correction of non-conforming zoning conditions may not be required as a condition of approval.
 - Q. Parcels created by an urban lot split may be used for residential uses only and may not be used for rentals of less than 30 days.
 - R. If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300 (d).
 - S. Urban Lot Splits shall be subject to all impact and other development fees imposed on the approval of a parcel map.
 - T. Specific Adverse Impacts. In addition to the criteria listed in this section, a proposed Urban Lot Split may be denied if the building official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A “specific adverse impact” is a significant, quantifiable, direct and unavoidable impact, based on objective identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.
 - U. A building permit application for SB 9 dwelling units must be submitted concurrently with the parcel map application to demonstrate compliance with SB 9 development standards and this chapter for newly created lots.

Section 18.27.050 Additional Required Documentation.

- A. Owner-Occupancy Affidavit. The applicant for an Urban Lot Split shall sign an affidavit, in the form approved by the City Attorney, stating that the applicant intends to occupy one of the housing units on the newly created lots as its principal residence for a minimum of three (3) years from the date of the approval of the Urban Lot Split. This subsection shall not apply to an applicant that is a community Land Trust as defined in clause (ii) of subparagraph (11) of subdivision (a) of Section 402.1 of the

Revenue & Taxation Code or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue & Taxation Code.

- B. **Additional Affidavit.** If any existing housing is proposed to be altered or demolished, the owner of the property proposed for an Urban Lot Split shall sign an affidavit, in the form approved by the City Attorney, stating that none of the conditions listed in Section 18.27.040(F) above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three (3) years (five (5) years if an existing unit is to be demolished). The owner and applicant shall also sign an affidavit stating that neither the owner nor applicant, nor any person acting in concert with the owner or applicant, has previously subdivided an adjacent parcel using an Urban Lot Split.
- C. **Recorded Covenant.** Prior to the approval and recordation of the parcel map, the applicant shall record a restrictive covenant in the form prescribed by the City of Belvedere City Attorney which shall run with the land and provide the following:
 - 1. A prohibition against further subdivision of the parcel using the Urban Lot Split procedures as provided for in this section; and
 - 2. A prohibition on nonresidential uses of any units developed or constructed on either resulting parcel, including a prohibition against renting or leasing the units for fewer than 30 consecutive calendar days.
 - 3. A decision to approve or deny an Urban Lot Split shall be final.

SECTION 4. AMENDMENT. Chapter 19.77 “Two-Unit Developments” is hereby added to the Belvedere Municipal Code to read in its entirety as follows:

- 19.77.010 **Purpose.** The purpose of this Chapter is to provide objective zoning standards for Two-Unit Developments within single family residential zones, to implement the provisions of state law as reflected in Government Code Section 65852.21, to facilitate the development of new residential housing units consistent with the City of Belvedere's General Plan, and to ensure sound standards of public health and safety.
- 19.77.020 **Definitions.** For purposes of this Chapter, the definitions contained in Section 18.27.020 shall apply.
- 19.77.30 **Permit Application and Procedures.**

- A. **Application and Review Authority.** An application for Two-Unit Development shall be made by the property owner and filed with the Planning Department on a form prescribed by the Director of Planning and Building, containing such information as reasonably requested by the Director of Planning and Building, and accompanied by the appropriate fee.

- B. Ministerial Review. For applications that satisfy the requirements of this Chapter, the Director of Planning and Building or designee shall approve a parcel map as a ministerial permit, without discretionary review, public hearing, or Design Review. The decision shall be final and shall state in writing the reasons for approval or denial.
- C. Review Timing. The City shall act upon an application for a Two-Unit Development within the time limits provided by the Permit Streamlining Act.

19.77.040 Qualifying Criteria for Two-Unit Developments. Applications for Two-Unit Developments must meet all the following requirements. No exceptions to the standards in this section shall be requested or granted.

- A. The parcel is in a single-family residential zone (R-1L, R1-W, R1-C, R-15).
- B. The Two-Unit Development is not located on a site that is any of the following:
 - 1. Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
 - 2. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
 - 3. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by the City of Belvedere (County of Marin), pursuant to subdivision (b) of Section 51179 of the Government Code, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.²
 - 4. A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources

² The local agency may wish to specify the relevant standards for very high fire hazard areas, hazardous waste sites, earthquake fault zones, flood hazard areas and floodways.

Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

5. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.
6. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent can satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph, the City shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the City of Belvedere that is applicable to that site.

A development may be located on a site described in this subparagraph if either of the following are met:

(1) the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the City; or

(2) the site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

7. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent can satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the City shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the City that is applicable to that site.
8. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code),

habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

9. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
 10. Lands under conservation easement.
- C. Notwithstanding any provision of this section or any local law, the proposed Two-Unit Development would not require the demolition or alteration of any of the following types of housing:
1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low- or very low-income.
 2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 3. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent applies for a Two-Unit Development.
 4. Housing that has been occupied by a tenant in the last three years.
- D. The proposed Two-Unit Development does not include the demolition of more than 25 percent of the existing exterior structural walls of any structure on the site unless the site has not been occupied by a tenant in the last three years.
- E. The proposed Two-Unit Development is not located within a historic district or property on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site designated or listed as a City of Belvedere landmark or historic property or historic district pursuant to a City of Belvedere Ordinance.
- F. The parcel is not located within a High Sensitivity area as shown on the General Plan Prehistoric Sensitivity Maps found in the Technical Appendix of the General Plan, which parcels are City of Belvedere historic properties.
- G. The proposed Two-Unit Development complies with all objective zoning standards, objective subdivision standards, and objective design review standards applicable to the

parcel as provided in the zoning district in which the parcel is located; provided, however, that:

1. The application of such standards shall be modified by the Director of Planning and Building if the standards would have the effect of physically precluding the construction of two units on a parcel subject to this chapter or would result in a unit size of less than 800 square feet. Any modifications of development standards shall be the minimum modification necessary to avoid physically precluding two units of 800 square feet each on a parcel.
 2. Notwithstanding subsection (F)(1) above, required rear and side yard setbacks shall equal four feet, except that no setback shall be required for an existing legally created structure, or a structure constructed in the same location and to the same dimensions as an existing legally created structure.
- H. Proposed adjacent or connected dwelling units shall be permitted if they meet building code safety standards and are designed to allow separate conveyance. The proposed Two-Unit Development shall provide a separate gas, electric and water utility connection directly between each dwelling unit and the utility.
- I. Two primary dwelling units only may be located on any lot created through an Urban Lot Split that proposes a Two-Unit Development. Accessory dwelling units and junior accessory dwelling units are not permitted on these lots.
- J. One of the units in a Two-Unit Development shall be the principal place of residence of the property owner and the other unit may be leased or rented to a separate household.
- K. Units created as part of a Two-Unit Development may be used for residential uses only and may not be used for rentals of less than 30 days.
- L. Parking. One parking space shall be required per unit constructed via the procedures set forth in this section, except that the City shall not require any parking where:
1. The parcel is located within one-half mile walking distance of either a stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or
 2. There is a designated parking area for one or more car-share vehicles within one block of the parcel.
- M. All units constructed as part of a Two-Unit Development shall be subject to all impact and other development fees imposed on the development of a new dwelling unit.

- N. Specific Adverse Impacts. In addition to the criteria listed in this section, a proposed Urban Lot Split may be denied if the building official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A “specific adverse impact” is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.

19.77.050 Objective Design Standards for Two-Unit Developments – The following objective standards apply to Two-Unit Developments:

- A. The following development is permitted on the parcel:
1. Two primary dwelling units, either a duplex or two single-family homes.
 2. If the parcel was not created using an Urban Lot Split, then additionally:
 - a. If a duplex is constructed, then two detached ADUs or one ADU created from existing non-livable space.
 - b. If one or two single-family homes are constructed, one ADU and one JADU.
- B. The maximum floor area of a unit in a Two-Unit Development shall be 800 square feet if the unit does not meet all development standards contained in the underlying zoning district.
- C. The maximum height shall be 16’ from existing grade as defined by the Belvedere Municipal Code if the unit does not meet all development standards contained in the underlying zoning district.
- D. A solid (no-openings) one-hour fire rated wall is required between adjacent or connected units constructed as part of a Two-Unit Development.
- E. Driveway access shall be compliant with Tiburon Fire Protection District Standards.
- F. All newly created dwelling units shall be connected to a public sewer or provide a private wastewater system that is fully contained within the parcel’s boundaries.
- G. Newly constructed units shall be of the same architectural style, detail, color and building material as the primary dwelling unit.

- H. Any new window that faces an adjoining residential property shall be either made of opaque glass and/or have a sill height above eye level. Any new doors that face an adjoining residential property shall either not include windows, or all windows must be of opaque glass.
- I. All exterior lighting shall be shielded and directed downward.
- J. Where visible from off-site locations, skylights shall not have white or light opaque colored exterior lenses and no lights shall be installed inside the wells of the skylights.
- K. Fencing shall be consistent with the fencing requirements of section 19.48.190 of the Zoning Ordinance.
- L. Landscaping materials shall include following:
 - (1) Shrubs, of at least one-gallon size, and limited to a maximum height of 8' on the sides and rear of the property.
 - (2) Trees, of at least 15-gallon size and that grow to a maximum height of 12'.
 - (2) Ground cover instead of grass/turf; and
 - (3) Decorative nonliving landscaping materials including, but not limited to sand, stone, gravel, wood or water may be used to satisfy a maximum of 25 percent of the parcel.

Section 19.77.060 Additional Required Documentation.

- A. Declaration of Prior Tenancies. If any existing housing is proposed to be altered or demolished, the owner of the property proposed for a Two-Unit Development shall sign an affidavit, in the form approved by the City Attorney, stating that none of the conditions listed in Section 19.77.040(F) (above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three years (five years if an existing unit is to be demolished).
- B. Recorded Covenant. Prior to the issuance of a building permit, the applicant shall record a restrictive covenant in the form prescribed by the City Attorney, which shall run with the land and provide for:
 - 1. A prohibition on non-residential use of any units developed or constructed through the Two-Unit Development, including a prohibition against renting or leasing the units for fewer than 30 consecutive calendar days.
 - 2. A requirement that one of the units on the site be the principal residence of the owner.

To: Mayor and City Council

From: Robert Zadnik, Public Works Director

Subject: Introduction and first reading of an Ordinance Repealing Belvedere Municipal Code Chapter 8.08 “Garbage Collection and Disposal” and Replacing with “Solid Waste Collection and Disposal” in compliance with State law SB 1383.

RECOMMENDATIONS.

1. Motion to read the Ordinance by title only. The City Clerk will read aloud the full title of the Ordinance.
2. Motion to approve the first reading of the Ordinance and waive future readings of the Ordinance in its entirety.

BACKGROUND AND DISCUSSION.

Senate Bill 1383 (SB 1383, the “Short-Lived Climate Pollutant Reduction Act”) requires all California jurisdictions to adopt a mandatory organic recycling ordinance to be effective January 1, 2022. The main goals of SB 1383 are to reduce organic waste disposal by 75% of 2014 levels by 2025 and increase edible food recovery by 20% by 2025. Broadly, SB 1383 requires jurisdictions to adopt an ordinance ensuring that all residents and businesses have access to recycling programs to capture organic waste including food scraps and landscaping waste, and also requires that local jurisdictions have the ability to compel residents and businesses to recycle their organic waste.

Pursuant to SB 1383, the California Department of Resources Recycling and Recovery (“CalRecycle”) has drafted regulations to achieve the organic waste reduction mandates. Each individual jurisdiction is responsible for complying with the requirements of SB 1383 and its implementing regulations.

Under SB 1383, the City must implement the following practices to be in compliance:

- Provide organic waste recycling services to all residents and businesses;
- Inspect and enforce compliance with SB 1383 by adopting an ordinance including enforcement mechanisms;
- Implement an edible food recovery program;
- Conduct outreach and education to affected parties, including waste generators and haulers;
- Procure recycled organic waste products like compost and mulch; and

- Maintain accurate and timely records of SB 1383 compliance for annual reporting requirements.

Provisions of SB 1383 and CalRecycle’s regulations become enforceable on April 1, 2022, at which time the City must have a compliant ordinance. The proposed draft Ordinance for the Council’s consideration satisfies the requirements of SB 1383 and associated implementing regulations. Here, the proposed Ordinance would repeal the existing outdated Municipal Code Chapter 8.08 “Garbage Collection and Disposal” and replace it with a new Chapter 8.08 that complies with SB 1383 and also carries over certain applicable provisions.

Staff recommends that the Council adopt the draft Ordinance.

Claire Wilson With R3 Consulting Group, Inc. will be available tonight to provide a brief presentation and answer questions.

ENVIRONMENTAL DETERMINATION.

The proposed Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that the Ordinance will not have a significant adverse effect on the physical environment.

CORRESPONDENCE.

Staff has satisfied noticing requirements regarding the proposed Ordinance and published a notice in *The ARK* newspaper. As of the writing of this report, no correspondence has been received regarding the project.

RECOMMENDATIONS.

1. Motion to read the Ordinance by title only. The City Clerk will read aloud the full title of the Ordinance.
2. Motion to approve the first reading of the Ordinance and waive future readings of the Ordinance in its entirety.

ATTACHMENTS.

Attachment 1: Proposed Ordinance

CITY OF BELVEDERE

ORDINANCE NO. 2022-XX

**AN ORDINANCE OF THE CITY OF BELVEDERE REPEALING CHAPTER 8.08
“GARBAGE COLLECTION AND DISPOSAL” AND REPLACING WITH CHAPTER
8.08 “SOLID WASTE COLLECTION AND DISPOSAL” OF
TITLE 8 “HEALTH AND SAFETY”**

WHEREAS, the City of Belvedere (the “City”) is a municipal corporation duly organized under the California constitution and State law; and

WHEREAS, State recycling law, Assembly Bill 939 of 1989 and the California Integrated Waste Management Act of 1989 (California Public Resources Code section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their cities to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment; and

WHEREAS, Assembly Bill 341 of 2011 places requirements on businesses and multi-family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires the City to implement a mandatory commercial recycling program; and

WHEREAS, Assembly Bill 1826 of 2014 requires businesses and multi-family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services for that waste, requires the City to implement a recycling program to divert organic waste from businesses subject to the law, and requires the City to implement a mandatory commercial organics recycling program; and

WHEREAS, Senate Bill 1383 (“SB 1383”), the “Short-lived Climate Pollutant Reduction Act of 2016”, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including cities, residential households commercial businesses and business owners, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food services to support achievement of statewide organic waste disposal and reduction targets; and

WHEREAS, SB 1383 regulations require the City to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of SB 1383 regulations; and

WHEREAS, this Ordinance implements and is in compliance with the requirements of AB 341, AB 1826, and SB 1383 regulations and requirements; and

WHEREAS, this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with

certainty that the Ordinance will not have a significant adverse effect on the physical environment.

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

SECTION 1. Findings. The Ordinance furthers the public health, safety, and welfare and the above recitals are true and correct and are incorporated as findings herein.

SECTION 2. Amendment. Belvedere Municipal Code Chapter 8.08 “Garbage Collection and Disposal” is hereby repealed and replaced with “Solid Waste Storage, Collection and Disposal” as follows:

8.08.010 Definitions. For purposes of this Chapter, the following definitions apply:

A. “Act” means the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 adopted 2008, the Mandatory Commercial Organics Recycling Act of 2014 (1826), and the Short-lived Climate Pollutants Bill of 2016 (SB 1383), and applicable implementing regulations from the California Department of Resources Recycling and Recovery (“CalRecycle”); and

B. “Blue Container” has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and Collection of Blue Container Organic Waste, which is Solid Waste that is Collected in a Blue Container that is part of a three-Container Organic Waste Collection service that prohibits the placement of Organic Waste in the Blue Container as specified in 14 CCR Section 18984.1.

C. “CCR” means the State of California Code of Regulations. CCR references in this Chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR.

D. “Collect” or “Collection” means the process whereby Solid Waste is removed from the place of generation for transportation to a Solid Waste Facility or other recovery activity.

E. “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, a multi-family residential dwelling, or as otherwise defined in 14 CCR 18982(a)(6). A multi-family residential dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of this Chapter.

F. “Commercial Edible Food Generator” means a tier one or a tier two commercial Edible Food Generator as defined in 14 CCR Section 18982(a)(73 and (74). Food recovery organizations and food recovery services are not Commercial Edible Food Generators.

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

H. “Compost” shall have the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this Chapter, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

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

J. “Container Contamination” or “Contaminated Container” means a Container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

K. “Construction and Demolition Debris” or “C&D” means used and discarded materials resulting from construction, renovation, remodeling, repair demolition, excavation, or construction clean-up operations.

L. “Container” means any bin, box, cart, or similar vessel used for the purposes of holding Solid Waste for Collection.

M. “Debris Box” means any ten (10) to forty (40) cubic yard Container or any compactor provided by a Solid Waste Generator placed in the public right-of-way, on City property, private property, or elsewhere in the City’s service area, which is procured by a Solid Waste Generator for its use in the Collection of its Solid Waste. Debris Boxes are serviced by means of lifting the entire Container, including contents, onto a designated Collection vehicle.

N. “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Chapter or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this Chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

O. “Enforcement Action” means an action of the City, or an enforcement agency delegated by the City, to address non-compliance with this Chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

P. “Excluded Waste” means hazardous substance, Hazardous Waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the

City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that would reasonably present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the City, or its designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in single-family or multifamily Solid Waste after implementation of programs for the safe Collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

Q. “Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

R. “Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.

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

T. “Food Recovery Organization” means an entity that engages in the Collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

- (1) A food bank as defined in Section 113783 of the Health and Safety Code;
- (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; or
- (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

U. “Food Recovery Service” means a person or entity that Collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

V. “Food Waste” means food scraps and trimmings from food preparation, storage, production, or similar activity, including but not limited to, meat, fish, and dairy waste, fruit and vegetable waste, grain waste, and acceptable food packaging items such as pizza boxes, paper towels, and food contaminated paper products.

W. “Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

X. “Garbage” means all non-recyclable waste, debris, or refuse, not including any type of hazardous materials or Excluded Waste.

Y. “Gray Container” has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and Collection of Gray Container Waste, which is Solid Waste that is Collected in a Gray Container that is part of a three-Container Organic Waste Collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

Z. “Green Container” has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and Collection of separated Green Container Organic Waste.

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

BB. “Hazardous Waste” means any waste materials or mixture of wastes defined as such pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. sections 9601 et seq., and the California Health and Safety Code sections 25110.02, 25115 or 25117, all implementing regulations, and any successor statutes, or as defined by the Environmental Protection Agency, the California Environmental Protection Agency, and/or the California Integrated Waste Management Board, or similar State or Federal agency. Where there is a conflict in the definitions by two or more agencies having jurisdiction, the term shall be construed to have the broader definition. “Hazardous Waste” or does not mean or include household Hazardous Waste.

CC. “High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the “Mixed waste organic Collection stream” as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).

DD. "Household Hazardous Waste" means materials that the authorized Collector may designate from time to time as eligible for curbside pick-up but inappropriate for Collection with regular pick-up and that are commonly generated by residential customers. Examples include, without limitation, consumer electronic waste, including computers, monitors, printers and cell phones, latex paint, used motor oil, oil filters, common household batteries (but not car batteries), fluorescent lightbulbs under four feet in length, and nonempty aerosol cans.

EE. "Inspection" means a site visit where a jurisdiction or its designee or designated entity, reviews records, Containers, and an entity's Collection, handling, recycling, or disposal of Solid Waste or edible food handling to determine if the entity is complying with requirements set forth in this Chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

GG. "MWELO" refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.

HH. "Multifamily Dwelling" means dwellings that include five (5) or more individual living units that receive and pay authorized Collector's invoices as a single-Collective bill.

II. "Non-Organic Recyclables" means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).

JJ. "Organic Waste" means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

KK. "Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

LL. "Prohibited Container Contaminants" means (1) discarded materials placed in the designated recyclables Container that are not identified as acceptable Source Separated recyclables for the City's designated recyclables Collection Container; (2) discarded materials placed in the designated organic materials Collection Container that are not identified as acceptable Source Separated organic materials for the City's designated organic materials Collection Container; and (3) discarded materials placed in the garbage Container that are acceptable Source Separated recyclables and/or Source Separated organic materials to be placed in City's designated organic materials Collection Container and/or designated recyclables Collection Container and, and (4) exempt waste placed in any Container.

MM. "Recovered Organic Waste Products" means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

NN. "Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

OO. "Recycled-Content Paper" means paper products and printing and writing paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

PP. “Remote Monitoring” means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Grey Containers for purposes of identifying the quantity of materials in Containers (level of fill) and/or presence of Prohibited Container Contaminants.

QQ. “Recyclable Materials, Source Separated” means materials that are separated to be processed into a form suitable for reuse, and designated to be separated for the waste stream for purposes of recycling, which designation shall be made the City and the authorized Collector, consistent with materials designated by State law.

RR. “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

SS. “SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to, for the purposes of this Chapter, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

TT. “Self-Hauler” means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

UU. “Single-Family” means of, from, or pertaining to any residential premises with fewer than five (5) units.

VV. "Solid Waste" has the same meaning as defined in Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid and semisolid Wastes, including garbage, recyclable materials, organic materials, demolition and construction wastes, bulky waste, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid Wastes, and other discarded solid and semisolid Wastes with the exception that Solid Waste does not include any of the following wastes: (1) Hazardous Waste, as defined in the Public Resources Code Section 40141, (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code) and (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code. Recyclable materials and organic materials are a part of Solid Waste. “Solid Waste Collection service” means Collection of Solid Waste originating in the City, by a persons, firms or corporations, and doing so under a contract or franchise agreement with the City.

WW. “Source Separated” means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the Chapter, Source Separated shall include separation of materials by the generator, property owner, property owner’s employee, property manager, or property manager’s employee into different Containers for the purpose of Collection.

XX. “Tier One Commercial Edible Food Generator” means a commercial edible food generator that is one of the following as defined in 14 CCR Section 18982(a):

- (1) Supermarkets with gross annual sales of \$2,000,000 or more
- (2) Grocery store with a total facility size equal to or greater than 10,000 square feet.
- (3) Food service provider, which means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.
- (4) Wholesale food vendor, which means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.
- (5) Food distributor, which means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.

YY. “Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site food facility and 200 or more rooms.
- (3) Health facility with an on-site food facility and 100 or more beds.
- (4) Large venue, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site, is a single large venue.

- (5) Large event, which means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.
- (6) A State of California agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (7) A local education agency facility with an on-site food facility. Local education agency means a school district, charter school, or county office of education that is not subject to the control of City or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

8.08.020 Purpose. The purpose of this Chapter is to prevent actual or public health hazards and nuisances by the regulation of the accumulation, Collection, and disposal of Solid Waste and the licensing of persons and entities engaged therein, and to comply with the Act as defined in this Chapter.

8.08.030 Disposal of Solid Waste—Generally. It is unlawful for any person to keep, deposit, bury, or dispose of any Solid Waste in or upon any private property, public street, alley, sidewalk, gutter, park, upon the banks of any stream, creek, or other body of water in the City, or in or upon any of the waters thereof, except as provided in this Chapter. Every person having the obligation of the disposal of Solid Waste as provided in this Chapter shall dispose of the same only through the authorized Collector or as may be expressly permitted by this Chapter.

8.08.040 Duty to Subscribe to Collection Service. Every tenant, lessee, or occupant of any premises, including, but not limited to any dwelling, ark, barge, or watercraft, and the keeper, operator, or manager of any hotel, restaurant, yacht club, yacht harbor, or other building or place where meals are furnished, within the City shall subscribe to the City authorized Collector for at least once each week service, and shall pay the Collector for said Collection service at the monthly rates provided therefore.

8.08.050 Requirements for Single-Family Organic Waste Generator. Except those that meet the Self-Hauler requirements in this Chapter, Single-Family Organic Waste Generators shall:

A. Subscribe to City's Organic Waste Collection services for all Organic Waste. The City shall have the right to review the number and size of a generator's Containers to evaluate adequacy of capacity provided for each type of Collection service for proper separation of materials and containment of materials; and, Single-Family generators shall adjust its service level for its Collection services as requested by the City.

B. Participate in the City's Organic Waste Collection service by placing designated material in designated Containers as required, and shall not place unauthorized materials in Collection Containers. Generators shall place Source Separated Green Container Organic Waste in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container.

8.08.060 Requirements for Commercial Organic Waste Generator, Including Multi-Family.
Generators that are Commercial Generators which pursuant to SB 1383 includes Multi-Family Dwellings shall:

A. Subscribe to the City's Organic Waste Collection services for all Organic Waste, as described below, except those that meet the Self-Hauler requirements of this Chapter. The City shall have the right to review the number and size of a generator's Containers and frequency of Collection to evaluate adequacy of capacity provided for each type of Collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their Collection services as requested by the City.

B. Participate in the City's Organic Waste Collection service by placing designated material in designated Containers as required, and shall not place unauthorized materials in Collection Containers. Generators shall place Source Separated Green Container Organic Waste in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container.

C. Supply and allow access to an adequate number, size, and location of Containers with sufficient labels or colors in compliance with the Act for employees, contractors, tenants, residents, and customers, consistent with the applicable color-coded Collection service.

D. Excluding Multi-Family Dwellings, provide Containers for the Collection of Source Separated materials in all indoor and outdoor areas where disposal Containers are provided for customers, for materials generated by that business. Such Containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be Collected in one type of Container, then the business does not have to provide that particular Container in all areas where disposal Containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the Containers provided by the business shall have either:

(1) A body or lid that conforms with the Container colors provided through the Collection service provided by the City. A Commercial Generator is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first.

(2) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that Container, or Containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the Container. Pursuant 14 CCR Section 18984.8, the Container labeling requirements are required on new Containers commencing January 1, 2022.

E. Multi-Family Residential Dwellings are not required to comply with Container placement requirements or labeling requirement pursuant to 14 CCR Section 18984.9(b).

F. To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Dwellings, prohibit employees from placing materials in a Container not designated for those materials.

G. Excluding Multi-Family Dwellings, periodically inspect Containers for contamination and inform employees if Containers are contaminated and of the requirements to keep contaminants out of those Containers pursuant to 14 CCR Section 18984.9(b)(3).

H. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Organic Waste and Recyclable materials.

I. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements regarding Source Separated materials and appropriate Container sorting, and the location of Containers and the rules governing their use at each property.

J. Provide or arrange access for the City or designee their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.

K. If implemented, accommodate and cooperate with the City's Remote Monitoring program for Inspection of the contents of Containers for Prohibited Container Contaminants, to evaluate generator's compliance with this Chapter.

L. Notwithstanding the above, and in accordance with the SB 1383 Regulations, the City is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Chapter and the Regulations, prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first. Labels will be placed on the Containers indicating the primary materials accepted and the primary materials prohibited in the Containers. Until SB 1383 compliant colored Containers are provided, Commercial businesses shall comply with the Container label requirements.

M. Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

N. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements of this Chapter. Full-service restaurants which are not under Tier Two Commercial Edible Food Generators are exempt from the Recycling requirements of this Section if the full-service restaurant, on or before July 1, 2020, provides its employees a commercial Solid Waste recycling bin or Container to Collect material purchased on the premises and implements a program to Collect recyclable commercial Solid Waste.

8.08.060. Waivers.

A. Pursuant to 14 CCR Section 18984.11, the City may grant waivers to Commercial Businesses for physical space limitations and/or de minimis volumes. Commercial Businesses seeking a waiver shall submit their requests in a form specified by the City Manager or his/her designee. After reviewing the waiver request, and after an on-site review, if applicable, the City Manager or his/her designee may either approve or deny the following waiver requests.

(1) De Minimis Waivers: The City may waive a Commercial Business' obligation to comply with some or all the requirements of Section 8.08.050 if the Commercial Business meets the following requirements:

(i) Submit an application specifying the type of waiver requested and provide documentation as described below.

(ii) Provide documentation that either:

(a) The Commercial Business' total Solid Waste Collection service is two cubic yards or more per week and Organic Waste subject to Collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable Container of the business' total waste; or,

(b) The Commercial Business' total Solid Waste Collection service is less than two cubic yards per week and Organic Waste subject to Collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable Container of the business' total waste; and

(c) Notifies the City if circumstances change such that Commercial Business's Organic Waste exceeds the threshold required for waiver, in which case waiver will be rescinded; and

(d) Notifies the City if circumstances change such that Commercial Business's Organic Waste exceeds the threshold required for waiver, in which case waiver will be rescinded; and

(2) Physical Space Waivers: The City may, at its discretion, waive a Commercial Business' or property owner's obligations (including Multi-Family Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste Collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lack adequate space for the Collection Containers required for compliance with the Organic Waste Collection requirements of this Chapter.

A Commercial Business or property owner may request a physical space waiver through the following process:

(i) Submit an application form specifying the type(s) of Collection services for which they are requesting a compliance waiver.

(ii) Provide documentation that the premises lack adequate space for Blue Containers and/or Green Containers, including documentation from its hauler, licensed architect, or licensed engineer.

(iii) Provide written verification to the City that it is still eligible for physical space waiver every five years, if the City has approved application for a physical space waiver.

(3) Collection Frequency Waivers: the City, at its discretion and in accordance with 14 CCR Section 18984.11(a)(3), may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to the City's Organic Waste Collection service to arrange for the Collection of their Containers once every fourteen (14) days, rather than once per week.

8.08.070. Requirements for Commercial Edible Food Generators.

A. Tier One Commercial Edible Food Generators must comply with the requirements of this Section 7 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR section 18991.3.

B. Large venue or large event operators, as defined in Section 8.08.010(YY), not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the large venue or large event to comply with the requirements of this Section, commencing January 1, 2024.

C. Commercial Edible Food Generators shall comply with the following requirements:

(1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

(2) Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for:

(i) the Collection of Edible Food for Food Recovery; or,

(ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.

(3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

(4) Allow the City’s designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR section 18991.4.

(5) Keep records that include the following information, or as otherwise specified in 14 CCR section 18991.4:

(i) A list of each Food Recovery Service or Food Recovery Organization that Collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR section 18991.3(b);

(ii) A copy of all contracts or written agreements established under 14 CCR section 18991.3(b); and

(iii) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations: The name, address and contact information of the Food Recovery Service or Food Recovery Organization; the types of food that will be Collected for the by or self-hauled to the Food Recovery Service or Food Recovery Organization; the established frequency that food will be Collected or self-hauled; and the quantity of food, measured in pounds, recovered per month, Collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

D. Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Health and Safety Code section 114079, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

8.08.080. Food Recovery Organization and Food Recovery Service Requirements.

A. Food Recovery Services Collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1).

(1) The name, address, and contact information for each Commercial Edible Food Generator from which the service Collects Edible Food;

(2) The quantity in pounds of Edible Food Collected from each Commercial Edible Food Generator per month;

(3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month; and

(4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

B. Food Recovery Organizations Collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

(1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food;

(2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month; and

(3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

C. Commencing January 1, 2022, Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b), as applicable.

D. Food Recovery Capacity Planning.

(1) Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the City that provides Solid Waste Collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within sixty (60) days, unless a shorter timeframe is otherwise specified by the City.

(2) Commencing no later than January 1, 2022, Food Recovery Services and Organization shall provide a quarterly report to the City which includes the information required in 14 CCR Section 18991.5 “Food Recovery Services and Organizations.”

8.08.090. Requirements for Haulers.

A. Requirements for Haulers

(1) Exclusive franchised haulers shall provide residential, Commercial, or industrial Organic Waste Collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to Collect Organic Waste:

(i) Through written notice to the City annually on or before January 1, 2022, identify the facilities to which they will transport Organic Waste including the facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste, as applicable.

(ii) Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste, as defined in 14 CCR, Division 7, Chapter 12, Article 2.

(iii) Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1 and the City's Municipal Code.

(2) The authorized hauler shall comply with education, equipment, signage, Container labelling, Container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, as may be amended from time to time.

(3) Notwithstanding any the foregoing, nothing in this Chapter shall restrict or otherwise prohibit the authorized Self-Hauler from meeting its compliance requirements by any alternative methods or procedures, provided it complies with SB 1383, the SB 1383 Regulations, and/or any other applicable law, as may be amended from time to time.

B. Requirements for Facility Operators and Community Composting Operations.

(1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the City request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within sixty (60) days.

(2) Community Composting operators, upon City request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within sixty (60) days.

8.08.100 Self-Hauler Requirements.

A. Self-Haulers shall Source Separate all recyclable materials and Organic Waste (materials that the City otherwise requires generators to separate for Collection in the City's

organics and recycling Collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.

B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:

- (1) Delivery receipts and weight tickets from the entity accepting the waste.
- (2) The amount of material in cubic yards or tons transported by the generator to each entity.
- (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.

D. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information Collected above to the City or designee if requested.

8.08.110 Compliance with CALGreen Recycling Requirement.

A. Persons applying for a permit from the City for new construction and building additions and alternations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen. If the requirements of CALGreen are more stringent than the requirements of this Section, the CALGreen requirements shall apply. Project applicants shall refer to the City's building and/or planning Code for complete CALGreen requirements.

B. For projects covered by CALGreen or more stringent requirements of the City as applicable, the applicants must, as a condition of the City's permit approval, comply with the following:

- (1) Where five (5) or more Multi-Family Dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and Collection of materials, consistent with the Collection program offered by the City, or comply with provision of adequate space for recycling for Multi-Family

and Commercial premises pursuant to California Green Building Standards Code, 24 CCR, Part 11 sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 as amended, provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.

(2) New Commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and Collection of Blue Container and Green Container materials, consistent with the three-Container Collection program offered by the City, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended, provided that amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.

(3) Comply with CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with City's C&D ordinance, and all written and published City policies and/or administrative guidelines regarding the Collection, recycling, diversion, tracking, and/or reporting of C&D.

8.08.120. Placeholder For Future Item.

8.08.130. Inspections.

A. The City Manager and his/her designee are authorized to conduct Inspections and investigations, at random or otherwise, of any Collection Container, Collection vehicle loads, or transfer, processing, or disposal facility for materials Collected from generators, or Source Separated materials to confirm compliance with this Chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Dwellings), property owners, Commercial Edible Food Generators, Haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section alone does not allow the City to enter the interior of a private residential property for Inspection.

B. Any person subject to this Chapter shall provide or arrange for access during all Inspections (with the exception of a private residential dwelling unit) and shall cooperate with the City or designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in Containers, Inspection of edible food recovery activities, review of required records, or other verification or Inspection to confirm compliance with any other requirement of this chapter. Failure to provide or arrange for: (i) access to the premises; (ii) installation and operation of remote monitoring equipment, if such a program is adopted; or (iii) access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties.

C. Any records obtained by the City during its Inspections, remote monitoring (if adopted), and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code section 6250 *et seq.*

D. The City, authorized Collector or designee shall accept written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints. The City shall administratively develop a system to accept anonymous complaints and require that all complaints be made in writing with the information specified in the SB 1383 regulations.

8.08.140 Enforcement.

A. The City Manager shall make such rules and interpretation of the terms of this Chapter not inconsistent with the provisions of this Chapter as may be necessary and reasonable. The enforcement official for this chapter shall be the City Manager or his/her designee, designated entity, legal counsel, or combination thereof.

B. Violation of any provision of this Chapter shall constitute grounds for issuance of a notice of violation and assessment of a fine by the City's code enforcement officer or his/her designee. Enforcement Actions under this Chapter are subject to the issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative fines, Chapter 1.15, are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated.

C. The City may also use all other remedies allowed by law including Municipal Code Chapter 1.14 "Administrative Remedies for Code Violations", Chapter 8.12 "Nuisance Abatement", and/or any successor or future related Municipal Code section, and also including civil action or prosecution as a misdemeanor or infraction. The City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, fines, and costs including attorneys' fees. The City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources. A violation of any provision of this Chapter shall constitute an infraction and a public nuisance. Remedies are cumulative and non-exclusive. Each separate day or any portion thereof on which a violation occurs shall be deemed to constitute a separate punishable offense.

8.08.150 City Contracts for Collection Services. The City Council may, with or without having invited bids therefore, enter into a contract with any responsible person or entity to be the authorized Collector under this Chapter. The term of such contract, rates of Collection and other provisions of such contract shall be as provided by resolution of the City Council. Where such a contract has been entered into between the City and a contractor for the Collection, removal and disposal of Solid Waste, and such contractor shall have satisfactorily performed such contract, the City Council without inviting bids or proposals therefore and without giving notice of its intention to do so, may, either prior to or after the expiration of such contract, extend or renew the same for such a period and on such terms and conditions as the City Council shall provide by resolution.

8.08.160 Duty of Collector—Regulation and Supervision of Collection. The authorized Collector shall provide Solid Waste Collection services to all customers situated within the City, provided that payment for service is made. The City Council may establish standard regulations for the methods of Collection of Solid Waste service charges, including the enforcement thereof. The City Manager or his/her designee shall supervise the Collection services by the authorized Collector.

8.08.170 Responsibility and liability of Collector—Liability Insurance Required. The authorized Collector shall be considered as and shall be an independent contractor and shall be responsible to the City for the result of the work to be done, but shall act under Collector's own directions as to the manner of performing this work. Collector shall keep itself and its employees insured against all liability under state workers' compensation and employee liability insurance, commercial general liability, compensation and safety laws, and against public liability and property damage (including such liability for use or operation of motor vehicles used in the performance of work hereunder). Such public liability insurance shall be in a form and manner, and to the extent satisfactory to the City.

8.08.180 Performance Bond. Prior to execution of any contract authorizing any person or entity to act as the authorized Collector under this Chapter, said person or entity shall file with the City a bond for the faithful performance of the contract in an amount reasonably determined by the City Manager.

8.08.190 Exclusive Rights of the Collector.

A. An award of a contract under this Chapter shall confer upon the person or entity to whom the contract is awarded the exclusive right to serve as the authorized Collector under this Chapter during the terms of the contract, to Collect, transport, and dispose of Solid Waste, subject only to such exceptions as are specifically set forth in this Chapter, or the City's contract with the authorized Collector. All provisions of this Chapter applicable to the authorized Collector shall constitute and be part of any contract awarded hereunder.

B. Nothing in this Chapter shall preclude an occupant, renter, or owner of property in the City to regularly dispose of their Solid Waste either personally or through the uncompensated services or another, in either case, at a county-operated disposal facility.

C. No person or entity, other than the Collector or persons authorized under Subsection B of this Section, shall remove paper, glass, cardboard, plastic, used motor oil, ferrous metal, aluminum, or other recyclable materials which have been Source Separated from Solid Waste materials and placed at a designated Collection location for residential curbside Collection for the purposes of Collection and recycling.

8.08.170 Rates and Charges. The authorized Collector shall charge every customer at rates established pursuant to the contract between the City and the authorized Collector. Such rates shall be subject to changes in accordance with said contract. The authorized Collector shall use reasonable efforts to set rates so as to fairly distribute the costs of Solid Waste Collection service between users thereof according to the extent of their usage.

8.08.180 Establishment of Routes and Times for Collection.

A. Consistent with the terms and provisions of the contract between the City and the Collector, the Collector shall establish routes, days, and hours for Collection of Solid Waste and may change the same from time to time. Prior to any change in said routes, days, and hours, the same shall be approved by the City Manager and filed with the City.

B. The City may direct the authorized Collector to restrict Collection hours during peak commute hours. When the City is conducting road overlay or slurry projects, the City reserves the right to temporarily redirect or restrict authorized Collector from Collection in affected areas or temporarily change the Collection hours if needed. The hours of Collection may be extended due to extraordinary circumstances or conditions upon the request of Collector with prior written consent from the City.

8.08.190 Emergency removal of Solid Waste. Nothing in this Chapter shall be deemed to prohibit the City from removing and hauling any waste considered by the City Manager or his/her designee to undermine the health, safety, or welfare of the public, or constituting a public emergency.

8.08.200 Transportation of Solid Waste in City.

A. No Solid Waste shall be removed and carried on and along the streets and alleys of the City, unless the same is carried, conveyed, or hauled in conveyances so constructed as to be dustproof, and so arranged as not to permit dust or other matter to sift through or fall upon the streets and alleys. The contents of such conveyances shall be further protected with appropriate covers so as to prevent the same from being blown upon the streets, alleys, and adjacent lands.

B. No wet Garbage shall be removed and carried on or along any street or alley of the City, unless the same is transported in watertight Containers with proper covers so that the garbage shall not be offensive, and every such Container shall be kept clean and such Garbage shall be so loaded that none of it shall fall, drip, or spill to or on the ground, sidewalk, or pavement.

C. Every truck used in the Collection or removal of Solid Waste shall be kept well painted and clean inside and out and the name of the contract agent and the truck number shall be prominently displayed on each truck.

8.08.210 Receptacle Location. Except as expressly provided by this Section, no Container other than those owned or rented by the City, shall be placed or kept in or on any public street, sidewalk, footpath, or in any public place whatsoever, but rather shall be maintained on the premises in a location and manner so as not to be visible from the public street. Notwithstanding the foregoing, Containers may be placed on the public street the days(s) and in the locations designated by the authorized Collector for removal and emptying of said receptacles, but shall be removed within twenty-four (24) hours of the day of Collection.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 4. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage. Within fifteen (15) days following its passage, a summary of the Ordinance shall be published with the names of those City Council members voting for and against the Ordinance and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance along with the names of the members voting for and against the Ordinance.

INTRODUCED AND AT A PUBLIC HEARING at a regular meeting of the Belvedere City Council on February 14th, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: _____
Sally Wilkinson, Mayor

ATTEST: _____
Beth Haener, City Clerk

To: Mayor and City Council
From: Craig Middleton, City Manager
Subject: City Charter

Recommended Motion/Item Description

That the City Council consider the draft city charter developed by staff and hold a public hearing on such draft. Another hearing on the draft charter and any adjustments to it would occur prior to Council action. At a meeting following the two public hearings, the Council could determine whether to place a charter measure on the ballot for consideration by the voters.

Background

The City has long been concerned about the capacity of critical levees to withstand earthquakes and to protect against storms and rising seas. Related are concerns about the protection of the utility systems that serve the people of Belvedere. Because key utility trunk lines are embedded in unsecured and unstable levees at San Rafael Avenue and Beach Road, the levees' susceptibility to earthquakes means that utility services are at risk.

As the broader community in California has seen a challenging increase in the number and severity of fire events in recent years, the Council has appropriately redoubled its efforts to keep Belvedere residents safe by reducing flammable vegetative material in the City, bolstering the Block Captain program and emergency communications, and seeking to improve the reliability of fire suppression systems and key egress routes that would be of paramount importance were a fire to break out. Part of this effort has been a review of the dependability of our levees, through which, in addition to utility trunk lines, flow the key supply lines for Island fire hydrants.

The Council has directed City staff to move forward on developing a plan for protecting Belvedere from earthquake impacts and flooding by securing levees and utilities, and stabilizing the Beach Road seawall that, as recently as 2019, required an intervention to prevent its partial collapse. A design concept for a "critical infrastructure project" has been approved and a team of staff and consultants are refining designs and engaging in the required environmental analysis. The current cost estimate for the project is approximately \$28M.

Funding the Critical Infrastructure Project

Councilmembers and staff, supported by grant writing consultants, have been working for some months to identify and secure outside funding for the critical infrastructure project. It is hoped

that such funding, should it be obtained, would decrease the net cost of the project to the City, and would thereby reduce the amount asked of City taxpayers.

The Finance Committee has reviewed several options for funding the remaining cost and has recommended to the Council that it pursue a real property transfer tax as the most equitable option for obtaining the financial resources needed so that the City could afford to build and maintain the project.

At its meeting on December 13th, the Council considered the Finance Committee's recommendation and directed staff to develop documents for Council consideration to provide an opportunity to place a transfer tax measure on the November 2022 ballot.

Funds from a real property transfer tax would not fund the project directly; the tax would provide the funding needed by the City to support a lease/leaseback of City assets and associated revenue bonds. These, in turn, would provide needed funding support for the project.

Charter City

Belvedere is a general law city. This means that State law governs its operations. Many cities in California have opted to become "charter cities," meaning that they exert enhanced control over their "municipal affairs." By reserving power of municipal affairs, the City reserves the right to assert more local control over its local government and City affairs. In addition to this general grant of power over municipal affairs, the Constitution grants express authority to charter cities over: (1) the regulation of the city police force; (2) the subgovernment of the city; and (3) the conduct of city elections. Charter cities may levy real property transfer taxes **if voters approve such taxes**; general law cities may not.

While the primary impetus for considering a charter city conversion now relates to funding to support the critical infrastructure project, Belvedere may benefit in other ways from a charter city's authority to assert more local control.

To become a charter city, the voters of Belvedere would need to approve a city charter. To place a charter measure on the ballot, the City Council must first hold two public hearings on a draft charter. At a meeting following the two public hearings, the Council could decide whether to place a charter measure on the ballot. Tonight's hearing is the first of two required hearings on the charter. It is anticipated that the second public hearing would be held at a special meeting of the City Council on March 22nd. A Council decision regarding a ballot measure would likely be agendaized for consideration in May. A draft charter is attached to this staff report (Attachment A).

Once approved by voters, a charter can be amended only by a majority vote of Belvedere voters. The City Council cannot amend a charter; only the voters can.

While Belvedere must be a charter city to implement a real property tax, only Belvedere voters can decide whether to approve such a tax. If the Council decides later this year to ask voters to

consider a tax, it would be advisable to place a combined charter city/real property transfer tax measure on the November ballot.

At tonight's meeting, we would like to introduce a draft charter for consideration and comment by the Council and the public. Staff would appreciate feedback and direction as to any potential refinements of the document. At the Council's direction, the staff would make any refinements and provide public notice of a subsequent Council hearing on the topic.

Attachment

A: Draft Charter for the City of Belvedere

DRAFT

Preamble to the Belvedere Charter

We, the people of the City of Belvedere, in the State of California, ordain and establish this Charter as the organic law of the City under the Constitution of the State. The City of Belvedere was originally founded in 1896 as a general law city.

City of Belvedere Charter

ARTICLE I. NAME AND BOUNDARIES

Section 100. Name and Boundaries

The municipal corporation now existing and known as the City of Belvedere, hereafter referred to as “the City,” shall remain and continue to be a municipal corporation under its present name of “City of Belvedere.” The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, or as such boundaries may be changed thereafter in the manner authorized by law.

ARTICLE II. POWERS OF CITY

Section 200. Municipal Affairs Powers.

The City may exercise all powers under Article XI, Section 5 of the Constitution of the State of California to make and enforce all ordinances and regulations with respect to municipal affairs, subject only to such limitations and restrictions as may be provided in this Charter and the Constitution of the State of California.

Section 201. Revenue.

Without limiting the general power of the City as described in section 200 of this Charter, the City may exercise the power of municipal affairs relating to municipal revenue for a system for the imposition, levy, and collection of a tax on the conveyance of real property based on the sales price or the value or the consideration paid for the real property without any limitations of the general laws of the State of California, including without limitation, Revenue and Taxation Code Section 11911.

Section 202. General Law Powers

The City will be governed by the general laws of the State of California except as set forth in this Charter. In addition to the powers granted under section 200 of this Charter, the City shall have the power and authority to exercise any and all rights and privileges lawfully granted to any general law city of the State of California. In the event of any conflict between the provisions of this Charter and the provisions of the general laws of the State of California, the provisions of this Charter control.

ARTICLE III. SUCCESSION

Section 300. Rights and Liabilities

The City shall remain vested with and continue to own, have, possess, and enjoy all property, rights of property, and rights of action of every nature and description owned, possessed, controlled, or enjoyed by it at the time this Charter takes effect. The City shall be subject to all the obligations, contracts, liabilities, debt, and duties of the City at the time this Charter takes effect.

Section 301. Ordinances, Codes, and Other Regulations

All ordinances, codes, resolutions, regulations, rules, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until repealed, amended, changed, or superseded in the manner provided by this Charter and any other applicable laws.

Section 302. Pending Actions and Proceedings

No action or proceeding, civil or criminal, pending at the time this Charter takes effect, brought by or against the City or any officer, office, or department thereof, shall be affected or abated by the adoption of this Charter, or by anything herein contained.

ARTICLE IV. SEVERABILITY.

Section 400. Severability

If any provision of this Charter is found by a court of competent jurisdiction to be invalid, the remaining provisions of the Charter shall remain in full force and effect.

OTHER SCHEDULED ITEMS

**BELVEDERE CITY COUNCIL
FEBRUARY 14, 2022**

To: Mayor and City Council

From: Robert Zadnik, Director of Public Works

Reviewed by: Craig Middleton, City Manager

Subject: **Award of Contract and Budget Amendment for the 2022 Belvedere Community Park Playground Renovation Project.**

Recommended Action

1. That Councilmember Nancy Kemnitzer state for the record that her residence is within 500 feet of the subject property and therefore she must recuse herself from this item.
2. That City Council adopt the attached resolutions: 1) to authorize the City Manager to approve a construction contract with **McNabb Construction** in the amount of **\$298,153**; and 2) to amend the budget to reflect new revenues and expenses related to the Playground project.

Background

In 2018, the Parks and Open Space Committee led an effort to refurbish the Community Park Playground. Multi-year funds were set aside in the Belvedere Capital Improvement Plan to assist the committee, staff, and community in developing a preferred design, which included development of project plans and professional cost estimates.

Through a formal bid process, the city [solicited bids](#) from contractors and has identified McNabb Construction as the lowest responsible and responsive bidder. Attached is a bid tabulation summary showing their bid their low bid of \$298,153.

In accordance with the Belvedere Administrative Policy Manual, Policy 2.7.4.D4, public project contract awards of \$175,000 or greater must be approved by the City Council and must be let to the lowest qualified bidder.

Fiscal Impact

The most significant source of funding for this project comes from individual pledged donations amounting to \$190,000 (\$183,000 received to date). Additional funds are being provided through generous grants from the Belvedere Community Foundation (totaling \$68,840). In addition to donated funding, staff recommends that the Council direct a portion of unallocated State funding received through Proposition 68 (Water and Parks Bond) to the project. Previously budgeted City funding for the playground (\$100,000) would complete the financing picture.

BUDGET SUMMARY					
Project Costs			Funds Received		
Design and Engineering		60,000	Community Donations		183,100
KOMPAN Play Equip		40,840	BCF Grant		34,950
Construction		298,153	City of Belvedere		100,000
Const. Contingency		29,000	Prop 68 Parks Grant		110,000
	Total	427,993	Total		428,050
Fencing (bid separate)		33,890	BCF Grant (for fencing)		33,890

- Proposition 68 is a Water and Parks bond that was passed in 2018. This is a Per Capita grant for which the city has been awarded \$177,000. Until recently, it was unknown when or how much the city would be receiving. A portion of this money has been earmarked to aid in construction of the promenade for the anticipated Critical Infrastructure Project. The remainder, \$110,000, would be dedicated towards the Playground Renovation Project.
- Certain items in the McNabb proposal, such as disposing of the sand from the sandbox and dismantling of the existing playhouse, have been removed as pay items and will be completed by Public Works and volunteers.
- This estimate excludes the perimeter bench proposed in the RHAA Architectural Design. This item was outside the project's budget and will be pursued at a later date when funding becomes available.
- An additional \$7,000 has been pledged through community donations but has not been received. Although they are anticipated, these pledges have been excluded from the project budget.

Recommended Action:

That City Council adopt the attached resolutions: 1) to authorize the City Manager to approve a construction contract with **McNabb Construction** in the amount of **\$298,153**; and 2) to amend the budget to reflect new revenues and expenses related to the Playground project.

Attachments:

- A. Resolution – Budget Amendment
- B. Resolution – Contract Award
- C. Bid Tabulation

CITY OF BELVEDERE

RESOLUTION NO. 2022 -07

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE
AUTHORIZING A BUDGET AMENDMENT FOR BELVEDERE PLAYGROUND**

WHEREAS, the City Council of the City of Belvedere adopted a resolution approving the Annual Budget for Fiscal Year 2021-22 on June 14, 2021; and

WHEREAS, the City has received private donations for the Playground Project in the amount of \$251,840; and

WHEREAS, the Proposition 68 Parks Per Capita Program will provide \$177,952 in State funds to the City for park and recreation improvements; and

WHEREAS, the City of Belvedere has already contributed a total of \$100,000 to the playground improvement project beginning in FY2020-21 and the remaining \$43,670 was included in the FY2021-22 Capital budget;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Belvedere that the Fiscal Year 2021-22 Annual Budget shall be amended to recognize \$110,000 in Proposition 68 Parks Per Capita Program funding and \$251,840 in private donation funding, and increase the capital budget expenditure authorization by \$361,840 for the Belvedere Playground.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Belvedere on February 14, 2022, by the following vote:

AYES: James Campbell, Nancy Kemnitzer, James Lynch, Steve Block, and Mayor Wilkinson
NOES: None
ABSENT: None
RECUSED: None

APPROVED: _____
Sally Wilkinson, Mayor

ATTEST: _____
Beth Haener, City Clerk

CITY OF BELVEDERE

RESOLUTION NO. 2022 - 08

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE
AUTHORIZING CONTRACT AWARD FOR BELVEDERE PLAYGROUND**

WHEREAS, the City solicited construction proposals for the playground improvements; and

WHEREAS, the City has through a formal bid process reviewed the submitted proposals; and

WHEREAS, the City identified McNabb Construction as the lowest qualified bidder;

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Belvedere authorizes the City Manager to enter into a contract with McNabb Construction for \$298,153.00 for the construction of the Belvedere playground improvements.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Belvedere on February 14, 2022, by the following vote:

AYES: James Campbell, Nancy Kemnitzer, James Lynch, Steve Block, and Mayor Wilkinson

NOES: None

ABSENT: None

RECUSED: None

APPROVED: _____
Sally Wilkinson, Mayor

ATTEST: _____
Beth Haener, City Clerk

BID TABULATION - COMMUNITY PARK PLAYGROUND RENOVATION PROJECT

January 6, 2022

11:30 PM

ENGINEER'S ESTIMATE						CF Contracting, Inc		Bauman Landscaping and Construction		Ronan Construction		McNabb Construction		Michael Paul Company	
BASE BID															
ITEM NO.	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1.0	Mobilization	1	LS	-	-	\$35,000.00	\$35,000.00	\$40,000.00	\$40,000.00	\$43,500.00	\$43,500.00	\$35,000.00	\$35,000.00	\$16,000.00	\$16,000.00
2.0	Site Preparation														
2.1	Demo & Remove off site existing concrete curbs	130	LF	-	-	\$30.00	\$3,900.00	\$14.00	\$1,820.00	\$35.00	\$4,550.00	\$14.00	\$1,820.00	\$45.00	\$5,850.00
2.2	Demo & Remove off site existing concrete paving	1638	SF	-	-	\$9.00	\$14,742.00	\$10.00	\$16,380.00	\$10.00	\$16,380.00	\$7.00	\$11,466.00	\$20.00	\$32,760.00
2.3	Demo & Remove off site existing Play surfacing	2100	SF	-	-	\$12.00	\$25,200.00	\$20.00	\$42,000.00	\$8.00	\$16,800.00	\$6.30	\$13,230.00	\$10.00	\$21,000.00
2.4	Demo & Remove off site existing Play sand	15	CY	-	-	\$150.00	\$2,250.00	\$350.00	\$5,250.00	\$350.00	\$5,250.00	\$140.00		\$10.00	\$150.00
2.5	Demo & Remove off site existing Temporary fencing	75	LF	-	-	\$70.00	\$5,250.00	\$6.00	\$450.00	\$50.00	\$3,750.00	\$28.00		\$50.00	\$3,750.00
2.6	Protect in place existing play equipment (3 each), benches (3 each), trash enclosures (2 each), table (1 each), curbs and fences to remain.	1	LS	-	-	\$5,000.00	\$5,000.00	\$500.00	\$500.00	\$3,000.00	\$3,000.00	\$3,500.00	\$3,500.00	\$1,000.00	\$1,000.00
2.7	Dismantle existing wood hut and return materials to City.	1	LS	-	-	\$10,000.00	\$10,000.00	\$2,400.00	\$2,400.00	\$1,000.00	\$1,000.00	\$6,300.00		\$1,000.00	\$1,000.00
2.8	Remove existing sand turtle and boat and return to City.	1	LS	-	-	\$10,000.00	\$10,000.00	\$3,200.00	\$3,200.00	\$1,000.00	\$1,000.00	\$7,000.00		\$1,000.00	\$1,000.00
2.9	Excavate, remove, prepare, level site area	3400	SF	-	-	\$14.00	\$47,600.00	\$10.00	\$34,000.00	\$8.00	\$27,200.00	\$8.40	\$28,560.00	\$20.00	\$68,000.00
2.10	Import fill to raise levels	400	SF	-	-	\$20.00	\$8,000.00	\$20.00	\$8,000.00	\$20.00	\$8,000.00	\$7.70	\$3,080.00	\$50.00	\$20,000.00
3.0	Storm Drain														
3.1	Furnish & install 4" PVC storm drainpipe with fittings as necessary.	124	LF	-	-	\$140.00	\$17,360.00	\$100.00	\$12,400.00	\$165.00	\$20,460.00	\$21.00	\$2,604.00	\$45.00	\$5,580.00
3.2	Furnish, install & connect subsurface drains to storm drainpipe.	3	EA	-	-	\$500.00	\$1,500.00	\$4,300.00	\$12,900.00	\$1,000.00	\$3,000.00	\$1,000.00	\$3,000.00	\$250.00	\$750.00
3.3	Furnish, install & connect area drains to storm drainpipe.	2	EA	-	-	\$604.00	\$1,208.00	\$800.00	\$1,600.00	\$1,000.00	\$2,000.00	\$1,000.00	\$2,000.00	\$500.00	\$1,000.00
3.4	Furnish, install & connect 8' of 6" PVC storm drainpipe to existing storm drain inlet structure.	1	EA	-	-	\$1,000.00	\$1,000.00	\$3,200.00	\$3,200.00	\$3,000.00	\$3,000.00	\$1,400.00	\$1,400.00	\$500.00	\$500.00
4.0	Furnish & install Shade Sail	1	LS	-	-	\$85,000.00	\$85,000.00	\$58,000.00	\$58,000.00	\$87,000.00	\$87,000.00	\$42,000.00	\$42,000.00	\$38,000.00	\$38,000.00
5.0	Paving/Flatwork														
5.1	Furnish & install Concrete Paving	1406	SF	-	-	\$20.00	\$28,120.00	\$20.00	\$28,120.00	\$12.00	\$16,872.00	\$28.00	\$39,368.00	\$15.00	\$21,090.00
5.2	Furnish & install PIP Resilient paving, Level surface area, 4" base, wear and cushion	3050	SF	-	-	\$28.00	\$85,400.00	\$34.00	\$103,700.00	\$27.00	\$82,350.00	\$33.60	\$102,480.00	\$27.00	\$82,350.00
5.3	Furnish & install Mounds	247	SF	-	-	\$28.00	\$6,916.00	\$2.00	\$494.00	\$100.00	\$24,700.00	\$35.00	\$8,645.00	\$36.00	\$8,892.00
5.4	Furnish & install ADA Ramp at Wood Fiber	63	SF	-	-	\$69.00	\$4,347.00	\$40.00	\$2,520.00	\$65.00	\$4,095.00	\$56.00		\$175.00	\$11,025.00
					Base Bid Total	\$340,000.00		\$397,793.00		\$376,934.00		\$373,907.00		\$298,153.00	\$ 339,697.00
BID ALTERNATE 1															
ITEM NO.	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
6.0	Bench with back and 12 arm rests	55	LF	-	-	\$1,750.00	\$96,250.00	\$1,350.00	\$74,250.00	\$1,500.00	\$82,500.00	\$840.00	\$46,200.00	\$800.00	\$44,000.00
					Bid Alt 1 Total	\$38,000.00		\$ 96,250.00		\$ 74,250.00		\$ 82,500.00		\$ 46,200.00	\$ 44,000.00
					Total Bid Cost	\$378,000.00		\$494,043.00		\$451,184.00		\$456,407.00		\$344,353.00	\$ 383,697.00

OTHER SCHEDULED ITEMS

**BELVEDERE CITY COUNCIL
FEBRUARY 14, 2022**

To: Mayor and City Council

From: Robert Zadnik, Director of Public Works

Reviewed by: Craig Middleton, City Manager

Subject: **Critical Infrastructure Project: Contract Amendment and Budget Adjustment**

Recommended Action

1. That City Council recognize the additional work necessary for developing a “shovel-ready” project; and
2. Adopt the attached resolutions: 1) authorizing the City Manager to approve an amendment to the Stetson Engineers Contract to cover necessary additional work, and 2) adjusting the budget to reflect transfers within the CIP Fund.

Background

In October of 2020, after discussing the topic during several publicly held meetings, the Committee to Protect Belvedere’s Seawalls, Levees and Utilities recommended to City Council that the Project Engineer (Stetson) incorporate an analysis of earthquake vulnerability as part of the preferred alternative design plan. This work involved an in-depth seismic analysis of the existing levees, further soil testing, and development of a summary report with recommendations from Miller Pacific Engineering Group (MPEG). This information was then used as design criteria for determining the depth and extent of sheet piles on both the San Rafael Avenue and Beach Road levees. A majority of this work was undertaken by MPEG as a subconsultant under Stetson’s existing contract.

Shifting efforts to incorporate an earthquake protection component was a significant undertaking; a significant amount of Stetson’s contract funds, previously authorized through City Council, were diverted towards this new task. As a result, additional funds are needed for Stetson to continue work in the following categories to arrive at a “shovel-ready” project with approved regulatory permits:

- Finalizing project construction drawings
- Technical support and responses for EIR
- Development of Construction Management Plan
- Preparation of Feasibility Design Report
- Program management and grant administration

The Committee and Council also directed staff to hire Environmental (CEQA) legal counsel and professional construction cost estimators. The City issued Requests for Proposals (RFP) and selected qualified and competent firms for these and other activities to support the project. The following table is a summary of consultants and associated project costs.

Estimated Funds Until Completion	
Stetson Additional Scope of Work	223,000
Additional Consultant Work Under Contract	
CEQA EIR and permitting	221,000
Landscape Architectural Design Support	45,000
CEQA Attorney	15,000
Professional Cost Estimator	24,000
Financial Legal Advisor	20,000
Public Outreach Consulting	45,000
Total	\$593,000

Fiscal Impact

As shown above, the total fee for Stetson's work is estimated to have a ceiling of \$223,042. All work is proposed to be billed on a time and materials basis. Of this amount, approximately \$190,000 will be utilized between now and the end of June 2022. Given that this amount is above the \$175,000 contract threshold, City Council action is required to proceed.

The Department of Water Resource (DWR) Grant had approximately \$439,000 remaining as of December 31, 2021. The local (city) share is 45% of that total, which has already been budgeted. This leaves a budget shortfall of \$154,000, which is needed to complete this phase of the project.

Staff is proposing to reallocate existing capital funds from specific projects that are unlikely to be completed between now and June 30, 2022. The following table provides a breakdown of available funds and proposed Capital Improvement reallocations.

Source of Funds		
Remaining DWR Grant		
	Local %45	197,000
	State %55	242,000
Reallocation of 21-22 FY Capital Improvement Funds		
Lanes Initiative Carryover		87,000
City Hall and Corp Yard Misc paint		12,400
City Hall Office ADA (remaining)		40,000
Refurbish Steel Railings		20,000
Total		\$598,400

Recommended Action:

Adopt the attached resolutions: 1) authorizing the City Manager to approve an amendment to the Stetson Engineers contract to cover necessary additional work, and 2) adjusting the budget to reflect transfers within the CIP Fund.

Attachments:

- A. Resolution - Contract Award Amendment
- B. Resolution - Budget Amendment

CITY OF BELVEDERE

RESOLUTION NO. 2022-09

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE
AUTHORIZING CONTRACT AMENDMENT WITH STETSON ENGINEERS, INC.**

WHEREAS, the City entered into a master agreement with Stetson Engineers, Inc. for consultant services related to the Belvedere Lagoon Coastal Levee System Evaluation on September 23, 2016; and

WHEREAS, the City has a grant from the Department of Water Resources (DWR) Local Levee Assistance Program Grant (LLAP), and Stetson Engineers, Inc. is providing project coordination, engineering, management and administration; and

WHEREAS, the City requires additional funding in the amount of \$223,000 to complete the additional engineering and Environmental Impact Report (EIR) Support Work for the Critical Infrastructure Project;

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Belvedere authorizes the City Manager to enter into a contract amendment with Stetson Engineers, Inc. for \$223,000 for the additional engineering and support work.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Belvedere on February 14, 2022, by the following vote:

AYES: James Campbell, Nancy Kemnitzer, James Lynch, Steve Block, and Mayor Wilkinson

NOES: None

ABSENT:None

RECUSED:None

APPROVED: _____
Sally Wilkinson, Mayor

ATTEST: _____
Beth Haener, City Clerk

CITY OF BELVEDERE

RESOLUTION NO. 2022-10

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE
AUTHORIZING A BUDGET AMENDMENT FOR CRITICAL INFRASTRUCTURE
PROJECT FUNDING**

WHEREAS, the City Council of the City of Belvedere adopted a resolution approving the Annual Budget for Fiscal Year 2021-22 on June 14, 2021; and

WHEREAS, the City has a grant with the Department of Water Resources (DWR) Local Levee Assistance Program Grant (LLAP) with a remaining amount of \$439,000, and that Stetson Engineers, Inc. is providing project coordination, engineering, management and administration; and

WHEREAS, the City requires additional funding in the amount of \$159,400 to complete the additional engineering and Environmental Impact Report (EIR) Support Work for the Critical Infrastructure Project; and

WHEREAS, the City of Belvedere has several Capital Improvement projects that have available funding that will not be expended in FY2021-22 totaling \$159,400;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Belvedere that the Fiscal Year 2021-22 Annual Budget shall be amended to recognize \$159,400 be reallocated from the Lanes Initiative (\$87,000), City Hall Painting (\$10,000), Corp Yard Painting (\$2,400), City Hall ADA (\$40,000), Refurbish Steel Railings (\$20,000) capital improvement projects and reallocated to increase the capital budget expenditure authorization by \$159,400 for the Levee Evaluation project.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Belvedere on February 14, 2022, by the following vote:

AYES: James Campbell, Nancy Kemnitzer, James Lynch, Steve Block, and Mayor Wilkinson

NOES: None

ABSENT: None

RECUSED: None

APPROVED: _____

Sally Wilkinson, Mayor

ATTEST: _____

Beth Haener, City Clerk