

City Council
Regular Meeting
Tuesday, February 17, 2015
6:00 PM
City Council Chambers

4:30 PM Adjourned Regular Meeting - Closed Session



Mayor Wayne Powell
Mayor Pro Tem Mark Burton
Councilmember Tony D'Errico
Councilmember David J. Lesser
Councilmember Amy Howorth

Executive Team

Mark Danaj, City Manager
Quinn Barrow, City Attorney

Robert Espinosa, Fire Chief
Cathy Hanson, Human Resources Director
Eve R. Irvine, Police Chief
Mark Leyman, Parks & Recreation Director
Bruce Moe, Finance Director

Nadine Nader, Assistant City Manager
Tony Olmos, Public Works Director
Liza Tamura, City Clerk
Marisa Lundstedt, Community
Development Director

MISSION STATEMENT:

The City of Manhattan Beach is dedicated to providing exemplary municipal services, preserving our small beach town character and enhancing the quality of life for our residents, businesses and visitors.

February 17, 2015

City Council Meeting Agenda Packet

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MANHATTAN BEACH'S CITY COUNCIL WELCOMES YOU!

Your presence and participation contribute to good city government.

By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified two additional times for public comments on the agenda--under "Community Announcements Regarding Upcoming Events," at which time the public may address the City Council regarding any upcoming events for up to one minute in duration for any speaker; and again under "Public Comment on Non-Agenda Items," at which time speakers may comment on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, not including items on the agenda, for up to three minutes for each speaker. Estimated times have been placed under each heading to assist with meeting management. Please note that these times are merely an estimate.

Please note that each speaker may speak for up to 15 minutes at any one Council meeting, with additional time during public hearings.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City's website at www.citymb.info, the Police Department located at 420 15th Street, and are also on file in the Office of the City Clerk for public inspection. Any person who has any question concerning any agenda item may call the City Clerk's office at (310) 802-5056.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Office of the City Clerk at (310) 802-5056 (voice) or (310) 546-3501 (TDD). Notification 36 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

BELOW ARE THE AGENDA ITEMS TO BE CONSIDERED. THE RECOMMENDED COUNCIL ACTION IS LISTED IMMEDIATELY AFTER THE TITLE OF EACH ITEM IN BOLD CAPITAL LETTERS.**A. PLEDGE TO THE FLAG**

5 MINUTES

B. NATIONAL ANTHEM

Performed by Heath Francis

5 MINUTES

C. ROLL CALL

1 MINUTE

D. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING

1 MINUTE

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, state under penalty of perjury that this notice/agenda was posted on Wednesday, February 11, 2015, on the City's Website and on the bulletin boards of City Hall, Joslyn Community Center and Manhattan Heights.

E. APPROVAL OF AGENDA AND WAIVER OF FULL READING OF ORDINANCES

5 MINUTES

By motion of the City Council this is the time to notify the public of any changes to the agenda and/or rearrange the order of the agenda.

F. CEREMONIAL CALENDAR

30 MINUTES

1. Presentation of a Commendation to Junior Lifeguard Madisson Giese for her Heroic Efforts on January 31, 2015. [15-0102](#)
PRESENT
2. Recognition of the "Why I Heart MB" Art Contest Winners: 1st Place - David Dixon; 2nd Place - Peggy Sullivan; 3rd Place - Karen Myers; and Honorable Mention - Luisa Millicent. [15-0041](#)
PRESENT
3. Presentation of Employee Service Awards to Employees Attaining 20 Years of Service or More. [15-0094](#)
PRESENT
4. Presentation of Certificates Recognizing the Mira Costa High School Rugby Team. [15-0095](#)
PRESENT

G. CITY MANAGER REPORT

5 MINUTES

H. CITY ATTORNEY REPORT

5 MINUTES

I. CITY COUNCIL ANNOUNCEMENTS AND REPORTS

5 MINUTES PER CITY COUNCILMEMBER FOR TOTAL OF 25 MINUTES

J. COMMUNITY ANNOUNCEMENTS REGARDING UPCOMING EVENTS

1 MINUTE PER PERSON

This portion of the meeting is to provide an opportunity for citizens to address the City Council regarding upcoming events. The duration for an individual speaking under "Community Announcements Regarding Upcoming Events" is limited to one minute. A second, extended opportunity to speak is provided under "Public Comment on Non-Agenda Items." While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda, except under very limited circumstances. Please complete the "Request to Address the City Council" card by filling out your name, city of residence, and returning it to the City Clerk. Thank you!

K. PUBLIC COMMENT ON NON-AGENDA ITEMS

3 MINUTES PER PERSON - 30 MINUTES MAXIMUM

Speakers may comment on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, not including items on the agenda. The Mayor may determine whether an item is within the subject matter jurisdiction of the City. While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda, except under very limited circumstances. Please complete the "Request to Address the City Council" card by filling out your name, city of residence, and returning it to the City Clerk.

L. CONSENT CALENDAR

5 MINUTES

NOTICE TO THE PUBLIC - The items on the "Consent Calendar" are routine and customary business items and will be enacted with one vote. The Mayor will ask the public, the City Councilmembers and the staff if there is anyone who wishes to remove any item from the "Consent Calendar" for public comment, discussion and consideration. The matters removed from the "Consent Calendar" will be considered individually at the end of this Agenda under "Items Removed from the Consent Calendar." At that time, any member of the audience may comment on any item pulled from the "Consent Calendar." The entire "Consent Calendar," with the exception of items removed to be discussed under "Items Removed from the Consent Calendar," is then voted upon by roll call under one motion, after the Mayor has invited the public to speak.

5. Amendment No. 2 to the Professional Engineering Services Agreement with Wallace & Associates for Additional Construction Inspection Services for the Sepulveda Boulevard and 2nd Street Water Main Replacement Project in the Amount of \$18,416 (Public Works Director Olmos).

[CON 15-0006](#)

APPROVE

Attachments: [Sepulveda Water Main - Attachment 1 \(Budget and Expenditures\)](#)
[Sepulveda 2nd Water - Wallace Amendment No 2](#)

6. Direct the Public Works Director to Issue an Encroachment Permit to Southern California Gas (SoCalGas) for Installation of a New Utility Pole on City Property Near 8th Street, East of Rowell Avenue (Public Works Director Olmos).

[15-0070](#)

APPROVE

Attachments: [PPIC Staff Report](#)
[Location Map](#)

7. Approval of Plans and Specifications for the Downtown Crosswalk Replacement and Slurry Seal Project (Interim Streetscape Improvements), Declare the Low Bid Non-Responsive and Award a Construction Contract to PALP Inc. dba EXCEL Paving Company for the Downtown Crosswalk Replacement and Slurry Seal Project (\$876,563.50) (Public Works Director Olmos). [CON 15-0007](#)
- APPROVE**

Attachments: [Downtown Crosswalk and Slurry Budget and Appropriations](#)
[Downtown Crosswalk Replacement Contract](#)

8. Minutes: [15-0010](#)
- This Item Contains Action Minutes of City Council Meetings which are Presented for Approval. Staff Recommends that the City Council, by Motion, Take Action to Approve the Action Minutes of the:
- a) City Council Adjourned Regular Meeting-Closed Session of February 3, 2015
- b) City Council Regular Meeting of February 3, 2015 (City Clerk Tamura).
- APPROVE**

Attachments: [City Council Adjourned Regular Meeting-Closed Session Minutes of February 3,](#)
[City Council Regular Meeting of February 3, 2015](#)

M. PUBLIC HEARINGS

30 MINUTES PER ITEM

9. Renewal of the North Manhattan Beach Business Improvement District and Approval of Assessments for Fiscal Year 2015-2016 (Finance Director Moe). [RES 15-0008](#)
- a) **CONDUCT PUBLIC HEARING**
- b) **ADOPT RESOLUTION NO. 15-0008**
- c) **RATIFY 2015 BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD MEMBERS**

Attachments: [Resolution No. 15-0008](#)
[2015 Projects and Activity Plan](#)

N. GENERAL BUSINESS

30 MINUTES PER ITEM

10. Leadership Manhattan Beach's Report on the Pier Telescope Replacement Project and Review and Direction on the Location of Two New Telescopes in the Upper Strand Parking Lots (Fire Chief Espinosa). [15-0093](#)
- RECEIVE REPORT AND APPROVE**

Attachments: [Pier Telescopes Agreement](#)

-
11. Fiscal Year 2014-2015 Mid-Year Budget Report; Discuss and Provide Direction Regarding the Information Technology Director Position (Finance Director Moe). [15-0072](#)
RECEIVE REPORT; DISCUSS AND PROVIDE DIRECTION; APPROPRIATE
Attachments: [Fiscal Year 2014-2015 General Fund Budget Projections](#)
[NexLevel MB Assessment and Master Plan Excerpts](#)
12. Presentation of the Proposed Fiscal Year 2015-2016 to Fiscal Year 2019-2020 Five Year Capital Improvement Plan (Public Works Director Olmos). [15-0067](#)
RECEIVE REPORT
Attachments: [FY 2016-2020 Proposed Projects by Type Spreadsheet \(Excerpt from Capital In February 17, 2015 City Council Meeting Unfunded Projects](#)
13. Status Report on Historic Preservation (Community Development Director Lundstedt). [15-0092](#)
REVIEW AND PROVIDE DIRECTION
Attachments: [California Office of Historic Preservation Technical Assistance Series Bulletin 14 Certified Local Government Program \(CLG\) Overview](#)

O. ITEMS REMOVED FROM THE CONSENT CALENDAR

5 MINUTES PER ITEM

Prior to the Council's consideration of each item removed from the consent calendar, speakers may comment on any or all of those items for up to three minutes per item.

P. OPTIONAL ADDITIONAL PUBLIC COMMENTS ON NON-AGENDA ITEMS

For speakers who did not speak at the first "Public Comment" period because the 30 minute time limit was reached.

3 MINUTES PER PERSON

Q. OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS, FUTURE DISCUSSION ITEMS

5 MINUTES PER CITY COUNCILMEMBER FOR TOTAL OF 25 MINUTES

14. Request by Mayor Powell to Send Letters or Adopt Resolution Supporting the Los Angeles Air Force Base and the Space and Missile Systems Center and Opposing Their Closure or Relocation. [15-0103](#)
DISCUSS AND PROVIDE DIRECTION
Attachments: [Greensheet LAAFB](#)

R. RECEIVE AND FILE ITEMS

The following items are informational items that do not require action by the City Council. They can be "Received and Filed" by one motion: "Motion to Receive and File" or by order of the Chair.

The Mayor will provide a maximum of three minutes for speakers to comment on this category.

- 15.** Financial Reports: [15-0063](#)
a) Schedule of Demands: January 29, 2015
b) Investment Portfolio for the Month Ending December 31, 2014
c) Financial Reports for the Month Ending December 31, 2014
(Finance Director Moe).
RECEIVE AND FILE
Attachments: [Schedule of Demands for January 29, 2015](#)
[Investment Portfolio for the Month Ending December 31, 2014](#)
[Financial Reports for the Month Ending December 31, 2014](#)
- 16.** Planning Commission Approval of a Use Permit, Vesting Tentative Parcel Map No. 72860 and a Categorical Exemption under CEQA for a Four-Unit Residential Condominium Project at 1154 North Rowell Avenue (Community Development Director Lundstedt) [15-0080](#)
RECEIVE AND FILE
Attachments: [Planning Commission Resolution No. PC 15-01](#)
[Planning Commission Draft Minutes, January 28, 2015](#)
[Planning Commission Staff Report and Attachments, January 28, 2015](#)
- 17.** Report on Emergency Repairs for Booster No. 3 of Peck Reservoir for the Amount of \$49,988 (Public Works Director Olmos). [15-0087](#)
RECEIVE AND FILE
Attachments: [General Pump Company Purchase Order](#)

18. Commission Minutes:[15-0089](#)

This Item Contains Action Minutes of City Council Subcommittees and Other City Commissions and Committees which are Presented to be Received and Filed by the City Council. Staff Recommends that the City Council, by Motion, Take Action to Receive and File the Action Minutes of the:

a) Parking and Public Improvements Commission Meeting of January 22, 2015

(Community Development Director Lundstedt)

b) Planning Commission Meeting of January 28, 2015

(Community Development Director Lundstedt)

RECEIVE AND FILE

Attachments: [Parking and Public Improvements Commission Action Minutes of January 22, 2015](#)
[Planning Commission Action Minutes January 28, 2015](#)

S. ADJOURNMENT**T. FUTURE MEETINGS****CITY COUNCIL MEETINGS**

Feb. 23, 2015 - Monday - 5:00 PM - Adjourned Regular Meeting (Closed Session)

Feb. 23, 2015 - Monday - 6:00 PM - Adjourned Regular Meeting/ ULI Report (Study Session)

Mar. 3, 2015 - Election Day

Mar. 4, 2015 – Wednesday -- 6:00 PM - City Council Meeting

Mar. 12, 2015 – City Council Retreat

Mar. 13, 2015 – City Council Retreat

Mar. 17, 2015 – Tuesday -- 6:00 PM - City Council Meeting/Reorganization

Apr. 7, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Apr. 14, 2015 - Tuesday - 6:00 PM - Adjourned Regular Meeting

Apr. 21, 2015 – Tuesday -- 6:00 PM - City Council Meeting

May. 5, 2015 – Tuesday -- 6:00 PM - City Council Meeting

May 7, 2015 - Thursday -- 6:00 PM - Budget Study Session #1

May 11, 2015 - Monday -- 6:00 PM - Budget Study Session #2

May. 19, 2015 – Tuesday -- 6:00 PM - City Council Meeting

May 21, 2015 - Thursday -- 6:00 PM -Budget Study Session #3

May 26, 2015 - Tuesday-- 6:00 PM - Budget Study Session #4

Jun. 2, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Jun. 16, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Jul. 7, 2015 – Tuesday -- 6:00 PM - City Council Meeting/Reorganization

Jul. 21, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Aug. 4, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Aug. 18, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Sep. 1, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Sep. 15, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Oct. 6, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Oct. 20, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Nov. 3, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Nov. 17, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Dec. 1, 2015 – Tuesday -- 6:00 PM - City Council Meeting

Dec. 15, 2015 – Tuesday -- 6:00 PM - City Council Meeting

BOARDS, COMMISSIONS AND COMMITTEE MEETINGS

Feb. 23, 2015 – Monday – 6:30 PM – Parks and Recreation Commission Meeting
Feb. 25, 2015 – Wednesday – 6:30 PM – Planning Commission Meeting
Feb. 26, 2015 – Thursday – 6:30 PM – Parking & Public Improvements Commission Meeting
Mar. 9, 2015 – Monday – 6:30 PM – Library Commission Meeting
Mar. 10, 2015 – Tuesday – 6:00 PM – Cultural Arts Commission Meeting
Mar. 11, 2015 – Wednesday – 6:30 PM – Planning Commission Meeting
Mar. 23, 2015 – Monday – 6:30 PM – Parks and Recreation Commission Meeting
Mar. 25, 2015 – Wednesday – 6:30 PM – Planning Commission Meeting
Mar. 26, 2015 – Thursday – 6:30 PM – Parking & Public Improvements Commission Meeting
Apr. 8, 2015 – Wednesday – 6:30 PM – Planning Commission Meeting
Apr. 13, 2015 – Monday – 6:30 PM – Library Commission Meeting
Apr. 14, 2015 – Tuesday – 6:00 PM – Cultural Arts Commission Meeting
Apr. 22, 2015 – Wednesday – 6:30 PM – Planning Commission Meeting
Apr. 23, 2015 – Thursday – 6:30 PM – Parking & Public Improvements Commission Meeting
Apr. 27, 2015 – Monday – 6:30 PM – Parks and Recreation Commission Meeting

U. CITY HOLIDAYS**CITY OFFICES CLOSED ON THE FOLLOWING DAYS:**

Nov. 27-28, 2014 – Thursday & Friday – Thanksgiving Holiday
Dec. 25, 2014 – Thursday – Christmas Day
Jan. 1, 2015 – Thursday – New Years Day
Jan. 19, 2015 – Monday – Martin Luther King Day
Feb. 16, 2015 – Monday – President's Day
May. 25, 2015 – Monday – Memorial Day
Jul. 3, 2015 - Friday - Independence Day
Sep. 7, 2015 – Monday – Labor Day
Oct. 12, 2015 – Monday – Columbus Day
Nov. 11, 2015 – Wednesday – Veterans Day

Agenda Date: 2/17/2015

TO:

Members of the City Council

FROM:

Mayor Powell

SUBJECT:

Presentation of a Commendation to Junior Lifeguard Madisson Giese for her Heroic Efforts on January 31, 2015.

PRESENT

**The City Council of the City of Manhattan Beach
Does Hereby Proudly Recognize
Junior Lifeguard Madisson Giese
For her Heroic Efforts
In Resuscitating a Tennis Player
at a Tennis Match on
January 31, 2015**

Agenda Date: 2/17/2015

TO:

Members of the City Council

FROM:

Mayor Powell

SUBJECT:

Recognition of the "Why I Heart MB" Art Contest Winners: 1st Place - David Dixon; 2nd Place - Peggy Sullivan; 3rd Place - Karen Myers; and Honorable Mention - Luisa Millicent.

PRESENT

**The City Council of the City of Manhattan Beach
Does Hereby Proudly Recognize
The 2015 "Why I Heart MB" Art Contest Winners**

FIRST PLACE

David Dixon

"Priceless Beach Time"

SECOND PLACE

Peggy Sullivan

"Wetsuits Hung on Pier Railing with Care"

THIRD PLACE

Karen Myers

"It's All About the Beach"

HONORABLE MENTION

Luisa Millicent

"Downhill to the Beach"

Agenda Date: 2/17/2015

TO:

Members of the City Council

FROM:

Mayor Powell

SUBJECT:

Presentation of Employee Service Awards to Employees Attaining 20 Years of Service or More.

PRESENT

**The City Council of the City of Manhattan Beach
Does Hereby Proudly Recognize
Employees Attaining 20 Years of Service or More**

Bobby Dobson (Public Works) - 20 Years
Paul Ford (Police) - 20 Years
Mario Martinez (Parks and Recreation) - 20 Years
Michael Taylor (Public Works) - 20 Years

Steve Charelian (Finance) - 25 Years
Shirelle Hull (Police) - 25 Years
Vincent Kennar (Police) - 25 Years
Bruce Moe (Finance) - 25 Years
Juan Price (Public Works) - 25 Years
Matthew Simkins (Fire) - 25 Years
Kevin Wilkins (Public Works) - 25 Years

Larry Randall (Fire) - 30 Years

Agenda Date: 2/17/2015

TO:

Members of the City Council

FROM:

Mayor Powell

SUBJECT:

Presentation of Certificates Recognizing the Mira Costa High School Rugby Team.

PRESENT

**The City Council of the City of Manhattan Beach
Does Hereby Proudly Recognize
The Mira Costa High School Rugby Team**

**Ethan Alverson
Greg Boras
Nick Coons
Blake Curtin
Harrison Dulgarian
Brandon Espeso
Justin Goring
Cameron Harger
Cole Hunter
Justin Johnson
Jwan Johnson
Jake Kirst
Gunnar Kissman
Andy Large
Matt Large
Isaiah Leilua
Jeremiah Leilua
Joshua Madden
Diego Marcucci
Lincoln Personius
Kevin Russell
Tre Searcy
Shawn Stachowiak**

**Jonah Tavai
Justus Tavai
Ryan Toomey**

**Duke Dulgarian, Head Coach
Ali Taylor, Assistant Coach
Andrew Hunter, Assistant Coach**

Agenda Date: 2/17/2015

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Tony Olmos, Public Works Director

Joe Parco, City Engineer

Michael A. Guerrero, Principal Civil Engineer

SUBJECT:

Amendment No. 2 to the Professional Engineering Services Agreement with Wallace & Associates for Additional Construction Inspection Services for the Sepulveda Boulevard and 2nd Street Water Main Replacement Project in the Amount of \$18,416 (Public Works Director Olmos).

APPROVE

RECOMMENDATION:

Staff recommends that the City Council approve Amendment No. 2 to the Professional Engineering Services Agreement with Wallace & Associates for additional inspection services for the Sepulveda Boulevard and 2nd Street Water Main Replacement Project in the amount of \$18,416.

FISCAL IMPLICATIONS:

Funding for this project has been appropriated by the City Council in the amounts indicated in Attachment No.1.

BACKGROUND:

This project is part of the City's ongoing program to replace aging water mains within the City's water distribution system. This project provides for construction of replacement water mains and new fire hydrants along Sepulveda Boulevard from Manhattan Beach Boulevard to 2nd Street and along 2nd Street from the Larsson Street Pump Station to the 2nd Street Pump Station. In addition, new or replacement pipes crossing Sepulveda Boulevard would be constructed at 9th, 10th, and 11th Streets. According to City records, the existing water mains on the west side of Sepulveda Boulevard are approximately 90 years old. Replacing these mains and the main along 2nd Street will assure the longevity and dependability of the water system.

Sepulveda Boulevard is owned/operated/maintained by Caltrans and requires a Caltrans Encroachment Permit for the proposed improvements along Sepulveda Boulevard. Caltrans has approved the City's request for the Encroachment Permit; however, since Sepulveda Boulevard is a heavily travelled commuter route, Caltrans has directed the City to complete the work at night (working hours from 9pm to 5am). Work not located on Sepulveda Boulevard (i.e. on local City streets) will be completed during normal construction hours (7:30am to 5pm). The work will require water main shut downs when connecting the new water main to the City's existing water distribution system and during the service conversion for each individual property when connecting the existing water meter from the existing water main to the new main. City staff will work with the Contractor to minimize the time of proposed water main shut downs and ensure that affected residents/businesses have appropriate advanced notice. Water main shut downs are estimated to take place from 10pm to 2am.

On July 15, 2014, the City Council awarded the construction contract, authorized the construction inspection agreement with Wallace & Associates (\$99,744), and authorized a 10% construction inspection contingency amount (\$10,000). The City Council approved Amendment No. 1 on January 20, 2015 in the amount of \$23,020 for additional inspection services primarily due to changes to the design of the project.

DISCUSSION:

After the City Council's approval of Amendment No.1 on January 20, 2015, the Contractor immediately encountered unforeseen delays due to difficulties in shutting down and isolating the existing water system in order to connect the new watermain to the existing system. City crews found deficient water valves that complicated the shutdown process, which required the implementation of additional procedures and repairs. All of this additional work has been exacerbated due to the work being completed at night and the significant traffic control required on Sepulveda Boulevard. The additional work has increased the amount of time to complete the work and the associated amount of inspection time.

Therefore, Public Works staff is recommending Amendment No. 2 in the amount of \$18,416 for additional inspection services, especially in consideration of the night time working hours.

Attachments:

- 1) Budget and Expenditures
- 2) Amendment No. 2 to Wallace Agreement

ATTACHMENT 1

Sepulveda Boulevard and 2nd Street Water Main Replacement Project

Budget and Expenditures

BUDGET	
FY 11/12 Water Fund (Design)	\$ 100,000
Appropriation from Water Fund Reserves (CCM 04/03/12)	\$ 25,000
FY 12/13 Water Fund (Construction)	\$1,100,000
FY 13/14 Water Fund (Construction)	\$ 700,000
TOTAL BUDGET	\$1,925,000
EXPENDITURES	
Project Management: VA Consulting (CCM 12/20/11)	\$ 28,108
Geotechnical: Kling Consulting Group (CCM 03/06/12)	\$ 3,913
Topographic Survey: KDM Meridian (CCM 03/06/12)	\$ 12,410
Design: Psomas (CCM 04/03/12)	\$ 75,000
Design Amendment No. 1: Psomas (CCM 04/03/12)	\$ 5,000
Design Amendment No. 2: Psomas (CCM 05/07/13)	\$ 13,000
Design Amendment No. 3: Psomas (CCM 05/06/14)	\$ 6,000
TOTAL DESIGN EXPENDITURES	\$ 143,431
Construction Contract (GMZ Engineering)	\$1,283,200
10% Construction Contingency	\$ 130,000
Construction Support/Inspection Contract (Wallace & Assoc)	\$ 99,744
10% Construction Inspection Contingency	\$ 10,000
Inspection Amendment No. 1 (CCM 01/20/15)	\$ 23,020
Inspection Amendment No. 2 (Recommended)	\$ 18,416
TOTAL CONSTRUCTION EXPENDITURES	\$1,564,380
TOTAL EXPENDITURES	\$1,707,811

**SECOND AMENDMENT TO THE AGREEMENT
BETWEEN THE CITY OF MANHATTAN BEACH AND
WALLACE & ASSOCIATES**

This Second Amendment ("Amendment No. 2") to that certain agreement dated July 22, 2014 by and between the City of Manhattan Beach, a California municipal corporation ("City") and Wallace & Associates, a Nevada corporation ("Consultant") (collectively, the "Parties") is hereby entered into as of this ____ day of February, 2015.

RECITALS

A. On July 22, 2014, City and Consultant entered into an agreement for professional services for construction observation for the Sepulveda Boulevard and 2nd Street Water Main Replacement Project ("Agreement");

B. On or about January 20, 2015, the parties entered into that certain First Amendment to the Agreement, increasing the number of hours of work authorized by the Agreement, and increasing the compensation by the amount of \$23,020;

C. The parties desire to amend the Agreement to further increase the amount of construction observation time, and to increase the compensation by the amount of \$18,416 to provide compensation for that additional work.

NOW, THEREFORE, in consideration of the Parties' performance of the promises, covenants, and conditions stated herein, the Parties hereby amend the Agreement as follows:

Section 1. Section 3.1 of the Agreement is hereby revised to read as follows:

"3.1 Amount. Compensation under this Agreement shall not exceed One Hundred and Forty One Thousand, One Hundred and Eighty Dollars (\$141,180). That compensation shall constitute reimbursement of Consultant's fee for the services as well as the actual cost of any equipment, materials, and supplies necessary to provide the services (including all labor, materials, delivery, tax, assembly, and installation, as applicable). "

Section 2. The schedule of hours and hourly rates for the additional work authorized by this Amendment shall be as forth in Exhibit A to this Amendment.

Section 3. Except as specifically amended by this Amendment, all terms and conditions set forth in the Agreement, as amended by the First Amendment, shall remain in full force and effect.

IN WITNESS THEREOF, the Parties hereto have executed this Amendment No. 2 on the day and year first shown above.

Wallace & Associates

By


CARL WALLACE - VP OPERATIONS

By


CATY WALLACE - PRESIDENT

CITY OF MANHATTAN BEACH
A Municipal Corporation

Mark Danaj, City Manager

ATTEST:

Liza Tamura, City Clerk

APPROVED AS TO FORM:

Quinn M. Barrow, City Attorney

APPROVED AS TO CONTENT:



Tony Olmos, Director of Public Works

EXHIBIT A
SERVICES AND HOURLY RATES



**Construction Engineering/Observation Services for
Sepulveda Boulevard Water Main Replacement Project**

Anticipated Weeks of Construction

Allocation	Staff	Role							Total Hours	Hourly Rate	Cost	
1 - Construction Management Services			1	2	3	4						
Wallace & Associates Staff												
As Needed	Carl Wallace PE	<i>Project Manager / Principal</i>	2	2	2	2			8	\$130	\$1,040	
Full time	Doug Blois, PE, QSD	<i>CE/Inspector</i>	40	40	40	40			160	\$102	\$16,320	
As-Needed	Heidi Nesper	<i>Project Administrator</i>	4	4	4	4			16	\$66	\$1,056	
Direct Cost Budget (Reproduction, Postage, Shipping, Incidentals)												
									Total Hours	184	Subtotal	\$18,416

Agenda Date: 2/17/2015

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Tony Olmos, Public Works Director
Joe Parco, City Engineer

SUBJECT:

Direct the Public Works Director to Issue an Encroachment Permit to Southern California Gas (SoCalGas) for Installation of a New Utility Pole on City Property Near 8th Street, East of Rowell Avenue (Public Works Director Olmos).

APPROVE

RECOMMENDATION:

Staff recommends that the City Council:

1. Direct the Public Works Director to issue an encroachment permit to Southern California Gas (SoCalGas) for installation of a new utility pole on City Property near 8th Street East, East of Rowell Avenue

FISCAL IMPLICATIONS:

Encroachment permit fees cover administrative costs to issue permit.

BACKGROUND:

On November 5, 2014, SoCalGas made a presentation to City Council describing their Advanced Gas Meter Program and infrastructure needs (Council Report and Presentation included in Attachment 1; Exhibits 2 and 3). Five communication poles outfitted with wireless transmitting equipment are needed to wirelessly read and transmit hourly gas usage information for use by SoCalGas and its customers. Four of the five communication poles will utilize existing poles, while one new pole is proposed.

On January 7, 2015, SoCalGas submitted an Encroachment Permit Application for the installation of a new utility communication pole on the south side of 8th Street approximately 200 feet east of Rowell Avenue. The new communication pole is proposed to be located at the Block 35 reservoir property. In accordance with City Council policy, all new utility pole

installations or relocations are to be reviewed by the Parking and Public Improvements Commission (Commission) for a recommendation which is forwarded to the City Council for approval or denial. The Commission considered the proposed location at their January 22, 2015 meeting and unanimously recommended that the City Council approve the encroachment permit request. The Commission agenda package is provided as Attachment 1.

SoCalGas is also proposing the installation of communication equipment on four existing poles located on City right of way. These four poles can be seen in the overall project location map (Attachment 2). Encroachment permits for these four installations can be issued administratively through the Community Development Department pursuant to Chapter 7.36, as these poles are located on the public right of way, and do not involve the new installation or relocation of existing utility poles.

Environmental Review

The California Environmental Quality Act (CEQA) requires public agencies to document and consider the environmental implications of their actions. Based on the scope of work, the project is categorically exempt pursuant to Section 15301, Class 1(b). Existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services. A Notice of Exemption will be filed with the Los Angeles County Clerk's office for the project if the encroachment permits are approved.

DISCUSSION:

SoCalGas is requesting to install one new utility pole near the City's water tower located on the south side of 8th Street approximately 200 feet east of Rowell Avenue. The proposed 26-foot high pole would be located approximately 17 to 20 feet behind the south curb of 8th Street and in front of the existing fence surrounding the water tower. A photo simulation is provided in the Encroachment Application package (Attachment 1 - Exhibit 1).

Chapter 7.36 of the Manhattan Beach Municipal Code sets forth the standards for encroachments on the public right-of-way. Section 13.02.050 of the Municipal Code specifies that franchised utilities that desire to install, alter or maintain its facilities that are located on City property must obtain an encroachment permit. Pursuant to these chapters, any encroachments on City property must meet certain standards. Staff concludes that the proposed encroachments will conform to the standards identified in Section 7.36.150 of the Municipal Code. Staff has determined that the new proposed pole location will not be in conflict with existing or future foreseeable public infrastructure pursuant to Section 7.36.050.

Attachments:

1. PPIC Staff Report
2. Location Map

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Parking and Public Improvements Commission

FROM: Marisa Lundstedt, Director of Community Development
Erik Zandvliet, T.E., City Traffic Engineer Planner

DATE: January 22, 2015

SUBJECT: Consideration of an Encroachment Permit for a Gas Company Communication Pole on 8th Street East of Rowell Avenue

RECOMMENDATION:

Staff recommends that the Commission approve a motion to recommend approval of an Encroachment Permit for a Southern California Gas Company Communication Pole on the south side of 8th Street approximately 200 feet east of Rowell Avenue by the City Council.

BACKGROUND:

On January 7, 2015, the Southern California Gas Company submitted an Encroachment Permit Application for the installation of a new utility communication pole on the south side of 8th Street approximately 200 feet East of Rowell Avenue. (Exhibit 1) In accordance with City Council policy, all utility pole installations or relocations are to be reviewed by the Parking and Public Improvements Commission (Commission) for a recommendation which is forwarded to the City Council for approval or denial.

On November 5, 2014, the Southern California Gas Company made a presentation to City Council describing their advanced gas meter program and infrastructure needs. (Exhibits 2 and 3) Approximately five new communications poles outfitted with solar-powered antennas will be needed to wirelessly read and transmit hourly gas usage information for use by the Gas Company and its customers. A detailed description of the program is included in the application package and Council presentation.

DISCUSSION:

The purpose of this report is to consider the installation of one utility communications pole near the City's water tower on the south side of 8th Street approximately 200 feet East of Rowell Avenue. The proposed 26-foot high pole would be located approximately 17 to 20 feet behind the south curb of 8th Street and in front of the existing fence surrounding the water tower. A photo simulation is provided in the Encroachment Application package (Exhibit 1).

Chapter 7.36 of Manhattan Beach Municipal Code describes the codes and regulations for private encroachments on the public right-of-way. Pursuant to this chapter, the City must make certain findings pursuant to Section 7.36.065. A summary of required findings and staff's initial

evaluation is attached to this report (Exhibit 5). This evaluation concludes that all the required findings are met for this Encroachment Permit Application, and the proposed encroachment will conform to the general standards identified in Section 7.36.150 of the Municipal Code.

The City Engineer has determined that the proposed pole location will not be in conflict with existing or future foreseeable public infrastructure pursuant to Section 7.36.050.

Public Notice

A notice of the Parking and Public Improvement Commission meeting was mailed to all property owners within a 500 feet radius from the subject encroachment property. Staff has received no responses to the notice prior to the agenda posting date.

CONCLUSION:

Staff supports the request for the installation of a new utility communication pole on the south side of 8th Street approximately 200 feet East of Rowell Avenue, and recommends that the PPIC approve a motion to recommend approval of the Encroachment Permit by the City Council.

- Exhibits:
1. Encroachment Permit Application with Attachments
 2. City Council Report 11/5/2014
 3. City Council Presentation 11/5/2014
 4. Municipal Code Chapter 7.36
 5. Encroachment Permit Required Findings and General Standards

Exhibit 1

Encroachment Permit Application with Attachments



ENCROACHMENT PERMIT APPLICATION

Chapter 7.36 MBMC

Manhattan Beach City Hall 1400 Highland Avenue Manhattan Beach, CA 90266

Telephone (310) 802-5500

FAX (310) 802-5501

TDD (310) 546-3501

Applicant/Agent-Name/number So Cal Gas Company Date Jan 7, 2015

Owners **MAILING** Address 555 W 5th Street Phone # (213) 244-2297

City: Los Angeles State: Ca Zip: 90013 E-mail vfistes@semprautilities.com

PROJECT Address On 8th St; South of 1427 8th St / 467 Feet West of the West Curbside of N Peck Ave / 18 Feet South of the South Curbside of 8th St "

Encroachment Located on 8th / Peck Ave Street, Avenue, etc. (If on more than one street, note **both**)

Name(s) of **LEGAL OWNER(s)** (AS SHOWN ON TITLE)

Proposed Encroachment (Check all that apply and describe) Deck/Patio Fence/Wall

Walkway/landings Steps Landscaping

Irrigation (Plumbing permit required) Lighting/Electrical (Electrical Permit Required) Other (Describe)

So Cal Gas to install (1) 26ft concrete pole in the public right of way for the Advanced Meter Project. Site ID #MH185-C

Owner certifies he/she has read the standard Encroachment Permit Standards, shall comply with said Standards, and shall not commence the construction of any private improvements in the public right of way without proper approval by the Community Development Department. This Encroachment Permit shall be valid for six (6) months after issuance.

Additionally, a right-of-way permit shall be required for all work in the public right-of-way.

Signature (s) Veronica Fistes

Fee Schedule	<input type="checkbox"/> Permit Application	\$1,495.00	Permit Fee (4502):	_____
	<input type="checkbox"/> Permit Transfer or Minor Revision	\$700.00	Total:	_____
	<input type="checkbox"/> Permit Appeal to PPIC	\$500.00		

For Office Use Only:

Legal Description _____

Map Book _____ Page (s) _____ APN _____

Bldg Permit # _____ (if applicable) New House: Yes ___ No ___

Comments/Notes: Water Main location: _____

Sewer Main location: _____

Public Works OK: Yes ___ No ___

Agreement Submitted: Yes ___ No ___ Insurance Submitted: Yes ___ No ___

Other: _____

Approved / Denied _____ Date _____

Community Development Department



Southern
California
Gas Company

A Semptra Energy utility

ADVANCED meter

COMMUNICATIONS NETWORK INSTALLATION FACT SHEET

UPGRADING OUR INFRASTRUCTURE

In 2010, the California Public Utilities Commission approved Southern California Gas Company (SoCalGas®) to upgrade its metering system by adding a communications device to natural gas meters. This technology will automatically read and securely transmit your gas usage information to our customer service and billing center.

ADVANCING THE WAY WE SERVE YOU

With this upgrade, you will have access to more frequent and detailed information about your gas consumption at socalgas.com, enabling you with better control of your energy usage and the potential to save money.

LEARN MORE

SoCalGas has been delivering clean, safe and reliable natural gas to customers for more than 140 years. To learn more, visit socalgas.com (search "ADVANCED") or call:

Residential Customers:

English	1-800-427-2200
Español	1-800-342-4545
國語	1-800-427-1429
粵語	1-800-427-1420
한국어	1-800-427-0471
Tiếng Việt	1-800-427-0478
For other languages	1-888-427-1345
Hearing Impaired (TDD)	1-800-252-0259

Business Customers:

English	1-800-427-2000
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FIRST PHASE: INSTALLING THE ADVANCED METER COMMUNICATIONS NETWORK

Data collectors have been positioned on poles throughout our service area, enabling the advanced meter communications device to provide information back to SoCalGas.

- ▶ **Working With Your City** – We are collaborating with your city and other entities to find the best location for installation of our data collectors. In some instances, SoCalGas will need to install new poles to attach the data collectors.



* Pole type may vary

ABOUT THE NETWORK

- ▶ Approximately 4,000 data collectors will be installed throughout SoCalGas' service territory, which encompasses approximately 20,000 square miles throughout Central and Southern California, from Visalia to the Mexican border.
- ▶ The network equipment will be pole mounted, 24 feet or higher.
- ▶ The data collectors may be A/C or solar powered.

- ▶ **Working Efficiently** – You may see a SoCalGas-approved contractor in your neighborhood performing these installations, which may take between one and three days to complete. We will make every effort to minimize disruption to your neighborhood.
- ▶ **Safety is a Priority** – The safety of our customers, employees and the communities we serve is our top priority. We will mount all data collectors and their antennas to meet state and local requirements for wind and seismic safety. The data collectors comply with all safety standards set by the Federal Communications Commission (FCC), producing radio frequency emissions at levels far below FCC limits.

SECOND PHASE: ADVANCED METER UPGRADE

SoCalGas is scheduled to install the advanced meter communications device on approximately 6 million natural gas meters through 2017. This technology is the next step in providing new and improved service for current and future customers. The advanced meter device is battery-powered and turns on for only a fraction of a second a day, for a total of less than two minutes a year. Only your gas usage reading will be transmitted through the network. No other personally identifiable information will be transmitted.

What is Advanced Meter?

Southern California Gas Company (SoCalGas®) is upgrading its system by adding an Advanced Meter communication device (Advanced Meter) to all residential and most business natural gas meters. The Advanced Meter will read and transmit customer natural gas usage to SoCalGas. However, until our communications network is fully operational, SoCalGas will continue to require access to manually read the meter for a few more months.

The Advanced Meter, which will be installed on the existing analog meter, is battery-powered and turns on for only a fraction of a second each day – for a total of less than two minutes per year. Advanced Meters cannot turn customer gas service on or off.

Advanced Meters provide customers with the opportunity to view their gas usage online at socalgas.com or with the Ways to Save mobile application. Customers can use this information to manage energy consumption and to potentially reduce monthly costs.

SoCalGas is scheduled to install the Advanced Meter on approximately 6 million natural gas meters through 2017.

What if I don't want an Advanced Meter?

SoCalGas recognizes that some customers prefer to continue to have their natural gas meter read manually each month. An Advanced Meter Opt-Out Program has been established for residential customers who do not want an Advanced Meter installed.

The California Public Utilities Commission (CPUC) has mandated the following fee structure for residential customers who participate in the Advanced Meter Opt-Out Program:

For Non-CARE* Customers:

Initial Fee: \$75.00
Ongoing Monthly Charge: \$10.00

For CARE* Customers:

Initial Fee: \$10.00
Ongoing Monthly Charge: \$5.00

Customers who want to participate in the Opt-Out Program should immediately call the SoCalGas Customer Contact Center at, 1-800-427-2200.

Where Can I Find More Information?

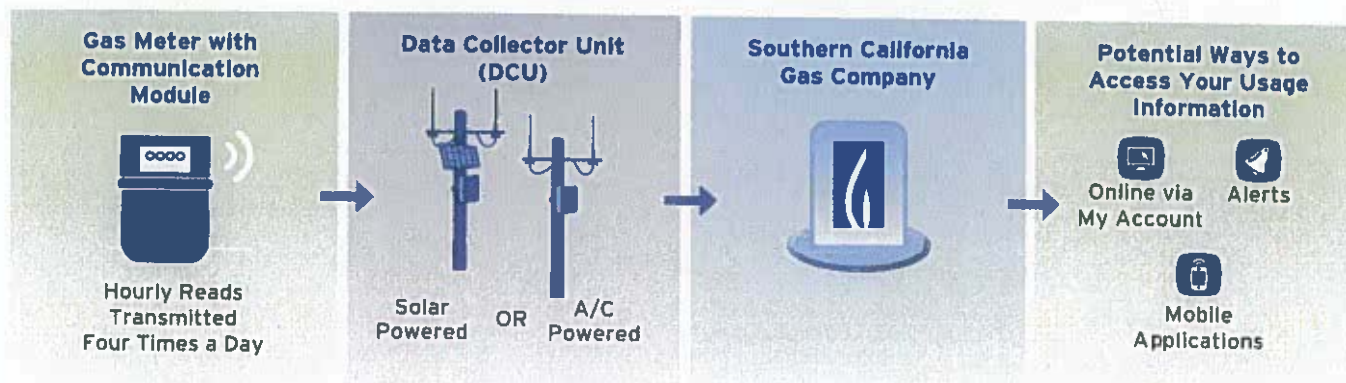
Visit socalgas.com (search "ADVANCED") or call:

Residential Customers:

English	1-800-427-2200
國語	1-800-427-1429
粵語	1-800-427-1420
한국어	1-800-427-0471
Tiếng Việt	1-800-427-0478
For other languages	1-888-427-1345
Hearing Impaired (TDD)	1-800-252-0259

Business Customers:

English	1-800-427-2000
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Images are for illustrative purposes only.

* California Alternate Rate for Energy (CARE) provides a 20% bill discount for income-qualified residential customers as well as for customers participating in public assistance programs.



Southern
California
Gas Company



ADVANCEDmeter

Construction Notice

Date

Jane Doe
123 Main Street
Anywhere, CA 90000

Dear Neighbor:

Southern California Gas Company (SoCalGas®) will be in your neighborhood to install equipment supporting our new communications network. The network is part of our system-wide upgrade to install Advanced Meter communications devices on all residential and most business natural gas meters.

In the coming weeks, SoCalGas-approved contractors will be installing a Data Collection Unit (DCU) mounted on a new pole or existing pole in your neighborhood (permitting weather and other factors). We collaborated with your city and other entities to find the best location for our data collection units, which enable the Advanced Meter communications devices to automatically read and securely send natural gas usage information to SoCalGas' customer service and billing center.

Project Details

Anticipated Start Date: EXAMPLE: Mid December

Contractor Work Hours: Approximately four to six hours to complete (permitting weather and other factors)

DCU Information: EXAMPLE: 29' wood pole or attachment to street light pole located at 123 Turkey Ln

What to Expect

- SoCalGas and its contractors' trucks and heavy equipment will be in the area
- Minimal traffic disruption in your neighborhood
- No interruption to gas service in the area
- We are committed to maintaining a safe working environment within your community

Once the Advanced Meter network and devices are installed and operational, customers will have next-day access to more detailed information about their natural gas consumption through new online tools at socalgas.com. Those tools will help customers manage their own energy use by viewing hourly, daily and monthly usage and taking steps to save energy and potentially save money.

Thank you for your cooperation during the construction process. If you have any questions or concerns please call me at **xxx-xxx-xxxx before construction begins in the coming weeks.**

Sincerely,

First Last,
SoCalGas Public Affairs Manager

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Site ID

Erik Zandvliet

From: Baptiste, Shaun <SBaptiste@semprautilities.com>
Sent: Tuesday, January 13, 2015 9:44 AM
To: Erik Zandvliet
Subject: Fw: Gas Company Encroachment License Agreement
Attachments: SCG_AdvancedMeter_NetworkFactSheetFinalEnglishSpanish_2013.pdf;
DCU_Install_Letter_SAMPLE DRAFT.pdf;
SoCalGasAdvancedMeterOverviewFactSheet_July_2014.pdf

Please see below.

Shaun Baptiste
Network Construction & Site Acquisition
Project Manager
Advanced Meter - DCU Deployment
Southern California Gas Co.

GT03B4

From: Baptiste, Shaun
Sent: Wednesday, January 07, 2015 04:57 PM
To: Erik Zandvliet <ezandvliet@citymb.info>; Joe Parco <jparco@citymb.info>
Cc: Nhung Madrid <nmadrid@citymb.info>
Subject: RE: Gas Company Encroachment License Agreement

Erik,

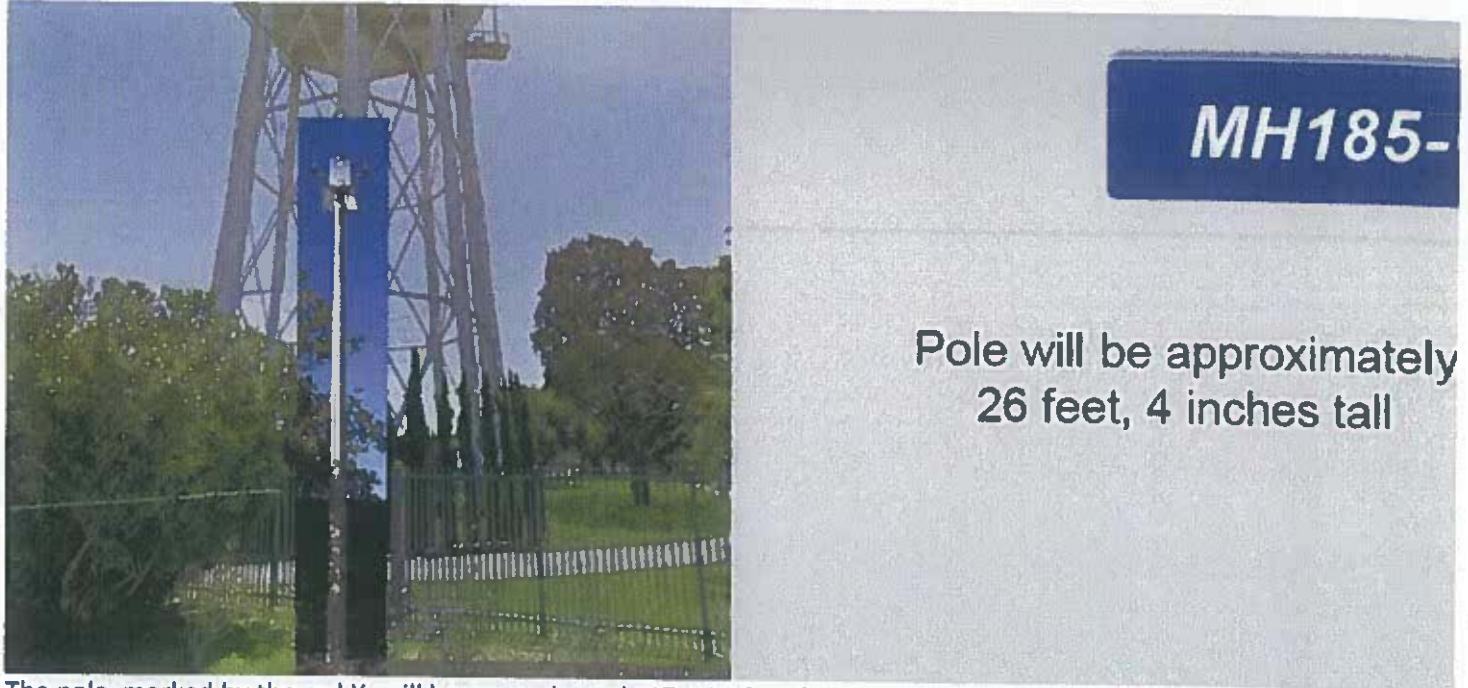
As you may know, SoCalGas is currently in the process of finalizing sites to install equipment to support or communications network. The network is part of our system-wide upgrade to install Advanced Meters on all residential and most business natural gas meters. The data collection units being proposed enable the Advanced Meter communication devices to automatically read and securely send natural gas usage information to SoCalGas' customer service and billing center. Please see the attached Network Fact Sheet explaining the purpose of SoCalGas' Advanced Meter (AM) project. During Phase 1 of our AM project, we are installing the network infrastructure. This requires the installation of data collector units (see Network Fact Sheet for an overview). Our company is required to provide coverage to all of our customers. In order to do this effectively, we have been mandated by the California Public Utilities Commission (CPUC) to provide network redundancy. This requires approximately 4000 Data Collection Units to be installed throughout our service territory. To date, we have successfully installed over 3000 DCU's. The DCU's are inspected annually.

Within the city of Manhattan Beach, there is a network need to install 5 DCU's, one being near the water tower on 8th street. Unfortunately, we could not attach to an existing pole because there are no viable existing pole options in the area determined by our network. Existing poles must meet out safety and engineering standards. The location will be on City property and will have minimal visual impact to the homeowners on 8th street since the water tower will be in the background as pictured below. At the City's request, the pole can't be placed within the fence line of the water tower property due to security issues.

Notification and Outreach

On November 5th, 2014, we presented our project to the Manhattan Beach City Council and provided detailed information regarding this site. We answered all the council members' questions and there were no objections to our project or this specific site. In addition to the meeting with the city council, we conducted one-on-one meetings with customers impacted by the poles/and or left information for follow up if they were unable to be reached. After receiving permits, we will mail out site specific DCU Install notification letters to homes within a 300 ft. radius of the pole (500 ft. if required by the city or PPIC). Sample attached.

The pole can be wood, concrete, or steel. Pictured below is a concrete pole. This was our recommendation for this area.



The pole, marked by the red X, will be approximately 17 – 20 feet from the curb and approximately 47 feet from the nearest property line.



When would you anticipate a decision by? Would it be possible to have an outcome by next Wednesday?

Thank you for your time, should you have any questions or concerns please feel free to call me directly.

Shaun Baptiste
Network Construction & Site Acquisition
Project Manager
Advanced Meter-DCU Deployment
Southern California Gas Co.
Mobile [REDACTED]
GT03B4

Exhibit 2
City Council Report 11/5/2014



Legislation Details (With Text)

File #: 14-0477 **Version:** 1

Type: Gen. Bus. - Staff Report **Status:** Agenda Ready

In control: City Council

On agenda: 11/5/2014 **Final action:**

Title: Advanced Gas Meter Installations Update and Presentation (Public Works Director Olmos).
RECEIVE REPORT

Sponsors:

Indexes:

Code sections:

Attachments: 1. Gas Company Advanced Meter Presentation

Date	Ver.	Action By	Action	Result
11/5/2014	1	City Council		

TO:
Honorable Mayor Powell and Members of the City Council

THROUGH:
Mark Danaj, City Manager

FROM:
Tony Olmos, Director of Public Works
Joe Parco, City Engineer

SUBJECT:
Advanced Gas Meter Installations Update and Presentation (Public Works Director Olmos).
RECEIVE REPORT

RECOMMENDATION:
Staff recommends that the City Council receive this report regarding advanced gas meter installations.

FISCAL IMPLICATIONS:
There will be no cost borne by the City. The Southern California Gas Company (SoCal Gas) will be performing the installations.

BACKGROUND:
In 2010, the California Public Utilities Commission (CPUC) authorized \$1.05 billion to upgrade approximately 6 million existing natural gas meters by 2017 with a communication device. The Advanced Gas Meter Installations Project will install new devices on existing gas meters and a limited number of antennas on street light poles that read and transmit hourly gas usage information securely and wirelessly on a daily basis. This will provide more frequent and detailed information to help customers better manage energy use and costs.

DISCUSSION:

On April 1, 2014 SoCal Gas staff gave a presentation to City Council describing the Advanced Gas Meter Installations Project. SoCal Gas relayed that gas usage will still be recorded in the traditional manner. However, consumers will now have the ability to access their account information in a variety of different ways such as online, call-in, on mobile devices and traditional paper.

Due to the size and geography of the city, there will be a minimum of 5 Network Points required to provide the necessary coverage for the citywide SoCal Gas system. SoCal Gas has performed a reconnaissance survey over the entire City to determine the most suitable locations for installation of their data collection units (DCU). The proposed locations of the 5 DCU's is shown in attachment 1. SoCal Gas will be providing a presentation on the Advanced Meter Installation and community outreach that will occur.

CONCLUSION:

Staff recommends that the City Council receive this update from staff regarding the SoCal Gas advanced meter installations.

Attachment:

1. Gas Company Advanced Meter Presentation

Exhibit 3

City Council Presentation 11/5/2014



ADVANCEDmeter

MANHATTAN BEACH
CITY COUNCIL
NOVEMBER 4, 2014

1

What is the Advanced Meter Project?

- California Public Utilities Commission (CPUC) decision received in April 2010 authorizing \$1.05 billion to upgrade approximately 6 million existing natural gas meters with a communication device by 2017
- Automatically reads and securely transmits hourly gas usage information on a “next day” basis
- Provides more frequent and detailed information to help customers better manage energy use and costs
- SoCalGas employees will perform installations
- Advanced meter installation began in October 2012 in South East LA County
 - Manhattan Beach scheduled Mid 2015



PHOTOS FOR DISCUSSION PURPOSES ONLY

ADVANCEDmeter

Information: Present - Future



Monthly Bill



Hourly Information

What are the Benefits?



**Get
Information**



**Save
Money**



**Help the
Environment**

How Does it Work?

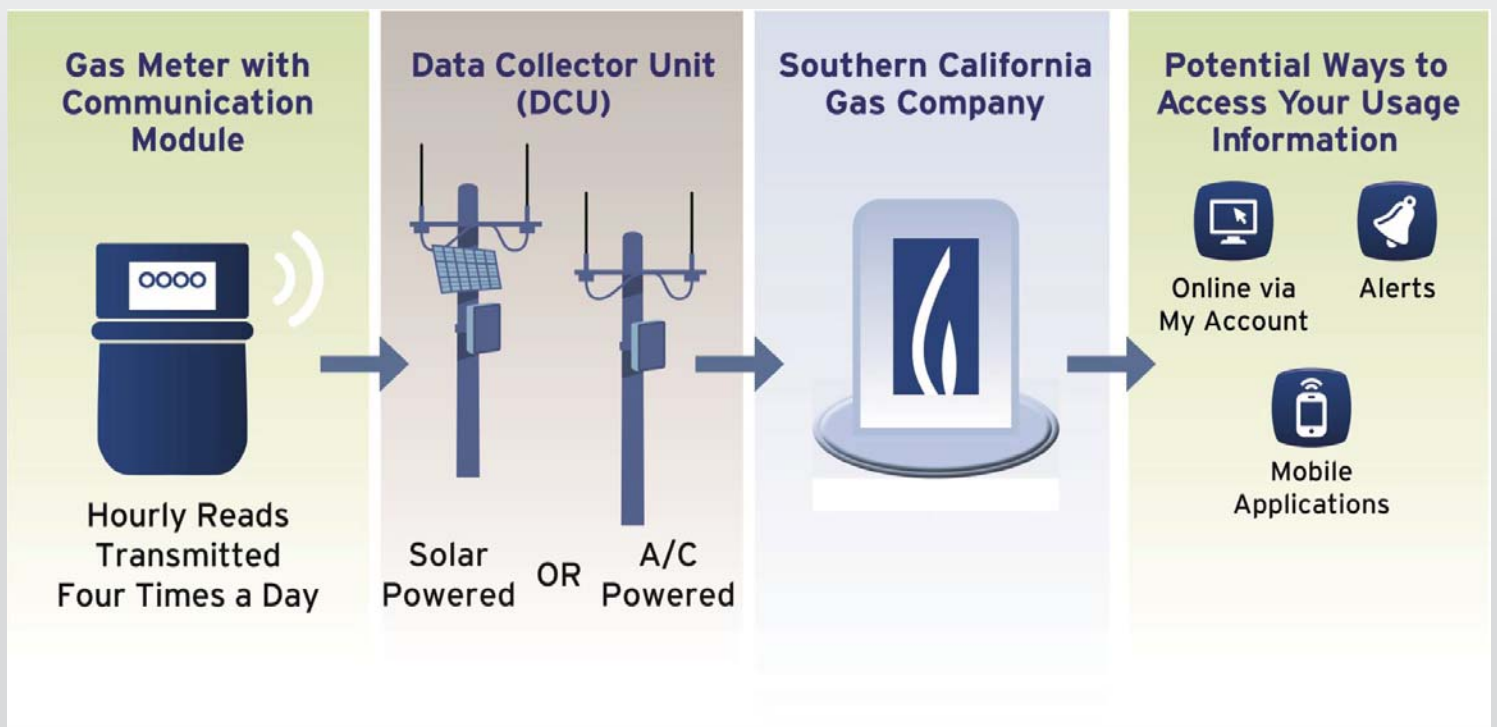
Gas usage is still recorded in the traditional way, it's a new communication device that transmits the information electronically



- Does not change the functionality of the gas meter; No remote connect / disconnect capabilities
- Device is **off** most of the time
- Securely transmits 12 hours of data 4 times per day to a Data Collector Unit (total “on” time is less than 2 minutes per year)
- **Battery-powered**
- Does not communicate with other meters
- Does not communicate with appliances in the home

ADVANCEDmeter

How is the information transmitted?



About the Communication Network – Data Collection Units (DCUs)

- Installing approximately 4,000 DCUs throughout SoCalGas' service territory
- Mostly pole mounted
- Antennas mounted 28 feet or higher (licensed 450 MHz frequency)
- Typically, Data Collector box is placed at top of pole with solar panel and antennas
- A/C* or Solar Powered
- 21.5" H x 13.6" W x 8.25" D
- Maximum DCU weight is 55 lbs
- Built-in Redundancy: advanced meters communicate with two to three DCUs

Data Collection Units (DCUs)



- Installed in areas where least impactful to the community
- Options of pole types to match existing infrastructure (wood, cement, steel)
- If viable assets exist in city (Edison poles, city poles, etc) can look into potential attachments if meets network need and passes engineering requirements

PHOTOS FOR DISCUSSION PURPOSES ONLY

8

ADVANCEDmeter

Community Outreach Efforts

- **Phase 1: Network Construction Customer Notification**

SoCalGas will notify impacted customers of network construction activity. Notification letter will be distributed to customers 2 weeks prior to network construction.

- **Phase 2: Advanced Meter Installation Outreach**

SoCalGas will implement local community outreach and customer communication to prepare customers for advanced meter installation

Local Communication & Community Outreach

90 to 60 Days Prior to Installation:

Briefings with Local Elected Officials, Community Leaders, Chambers, etc.

60 to 30 Days Prior to Installation:

Local Community Involvement & Events

30 Days Prior to Installation:

Customer receives notification letter
(geographically distributed)

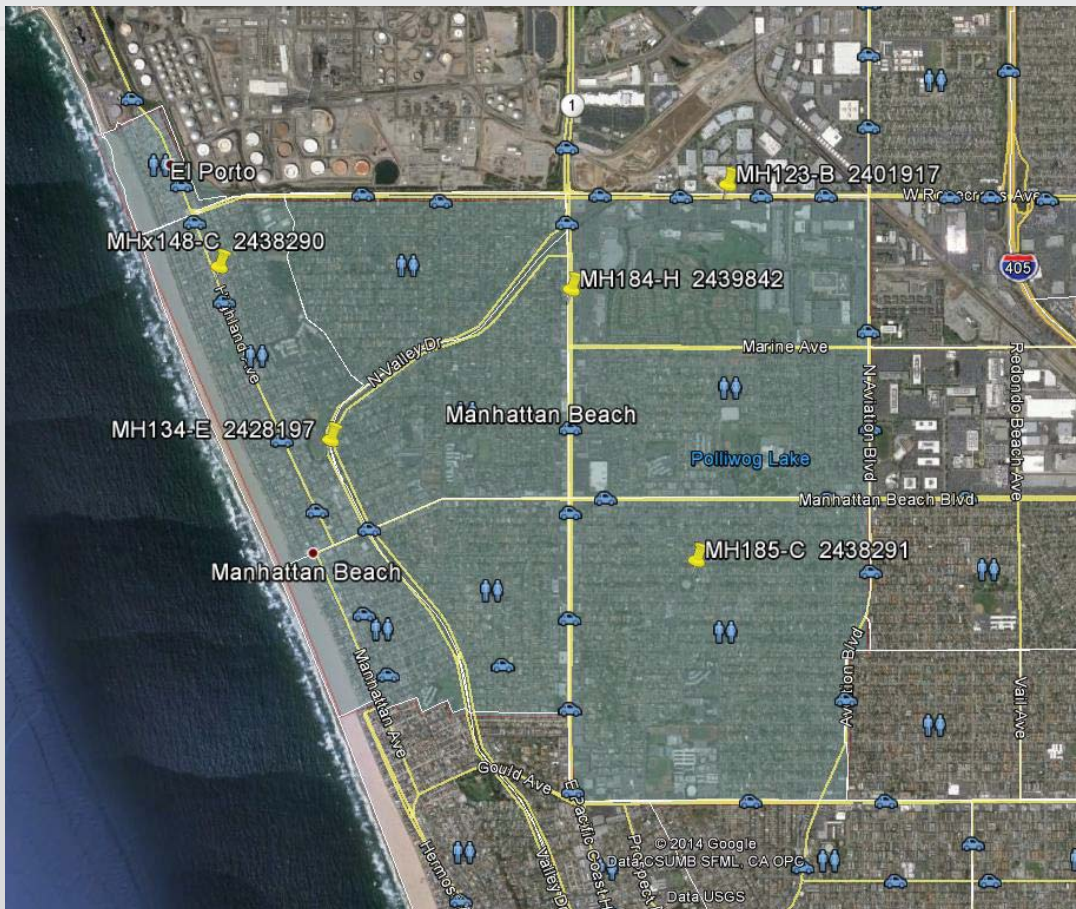
Installation Day:

Customer receives door hanger confirming installation has occurred

Post Installation:

Obtain feedback on installation experience

Final Site Selections - 5 Data Collector Units

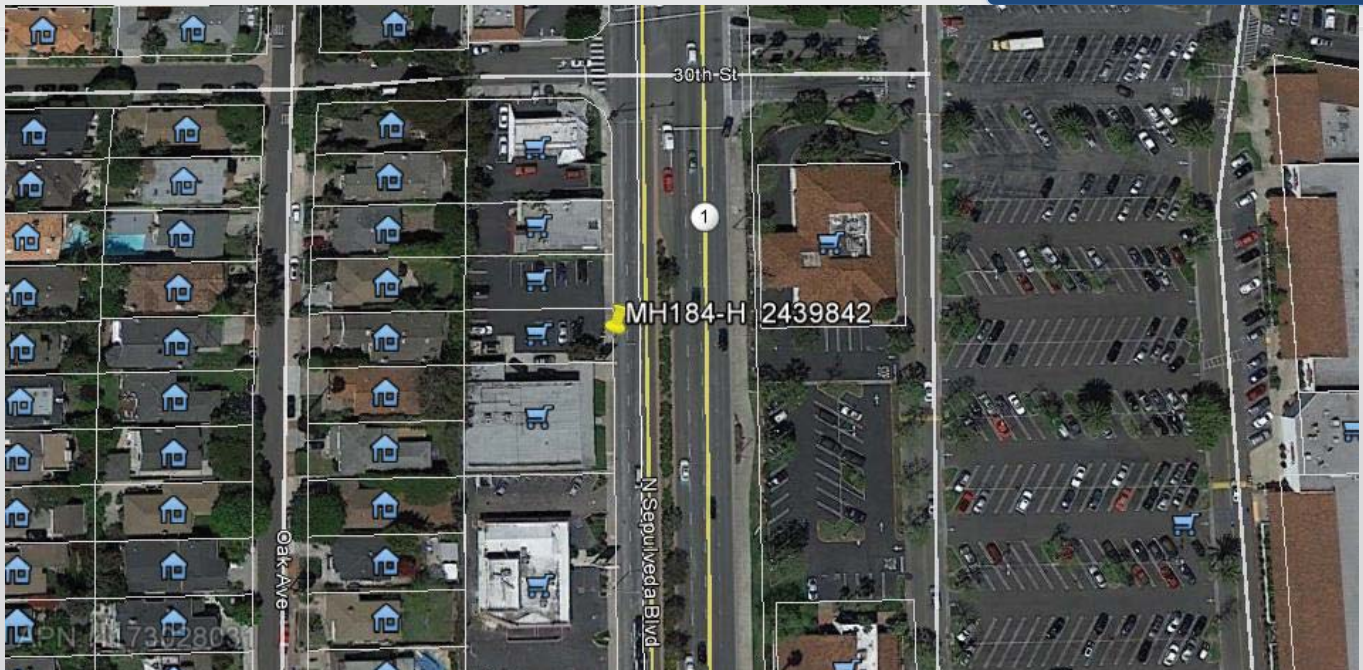


ADVANCEDmeter

DCU Search Ring Locations

Site	Address	Latitude	Longitude
MH184-H	On N. Sepulveda Blvd.; East of 2809 N. Sepulveda Blvd.	33.89668	-118.39616
MH134-E	On N Valley Dr; North of 1601 N Valley Dr	33.88948	-118.41008
MH123-B	On Rosecrans Ave; North of 1500 Rosecrans Ave	33.90174	-118.38713
<i>MHx148-C</i>	<i>On Highland Ave; East of 3111 Highland Ave</i>	<i>33.89779</i>	<i>-118.41652</i>
MH185-C	On 8th St; South of 1427 8th St	33.88371	-118.38893

MH184-H



On N. Sepulveda Blvd.; East of 2809 N. Sepulveda Blvd.

Notes

196 ft. South of the South curbface of 30th St.
2 ft. West of the West curbface of N. Sepulveda Blvd.

Attachment – SCE Street Light

ADVANCEDmeter

DCU will be located at approximately
26 feet above ground level

MH184-H



On N. Sepulveda Blvd.; East of 2809 N. Sepulveda Blvd.

Notes

196 ft. South of the South curbface of 30th St.
2 ft. West of the West curbface of N. Sepulveda Blvd.

Attachment – SCE Street Light

ADVANCEDmeter

MH134-E



On N. Valley Dr.; North of 1601 N. Valley Drive

Notes

505 Feet North of the North Curbside of 15th St.
2 Feet West of the West Curbside of N Valley Dr.

Attachment – SCE Street Light

ADVANCEDmeter

DCU will be located at approximately
26 feet above ground level

MH134-E



On N. Valley Dr.; North of 1601 N. Valley Drive

Notes

505 Feet North of the North Curbside of 15th St.
2 Feet West of the West Curbside of N Valley Dr.

Attachment – SCE Street Light

ADVANCEDmeter

MH123-B



On Rosecrans Ave.; North of 1500 Rosecrans Ave.

Notes

154ft. West of the West curb face of Market Place
2ft. South of the South curb face of Rosecrans Ave.

Attachment – SCE Street Light

ADVANCEDmeter

DCU will be located at approximately
26 feet above ground level

MH123-B



On Rosecrans Ave.; North of 1500 Rosecrans Ave.

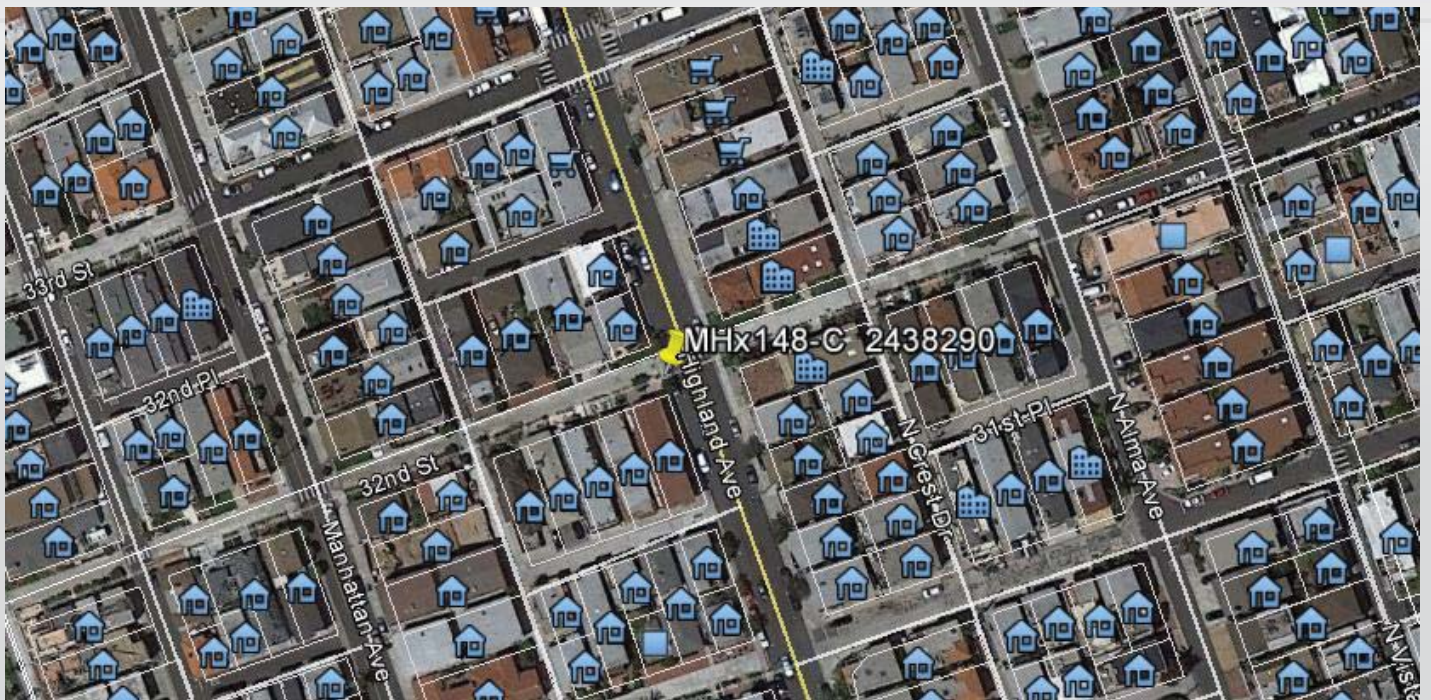
Notes

154ft. West of the West curb face of Market Place
2ft. South of the South curb face of Rosecrans Ave.

Attachment – SCE Street Light

ADVANCEDmeter

MHx148-C



On Highland Ave.; East of 3111 Highland Ave.

Notes

4 Feet South of the South Edge of Pavement of 32nd St.
2 Feet West of the West Curbside of Highland Ave.

Attachment – SCE Street Light

ADVANCEDmeter

DCU will be located at approximately
26 feet above ground level

MHx148-C



On Highland Ave.; East of 3111 Highland Ave.

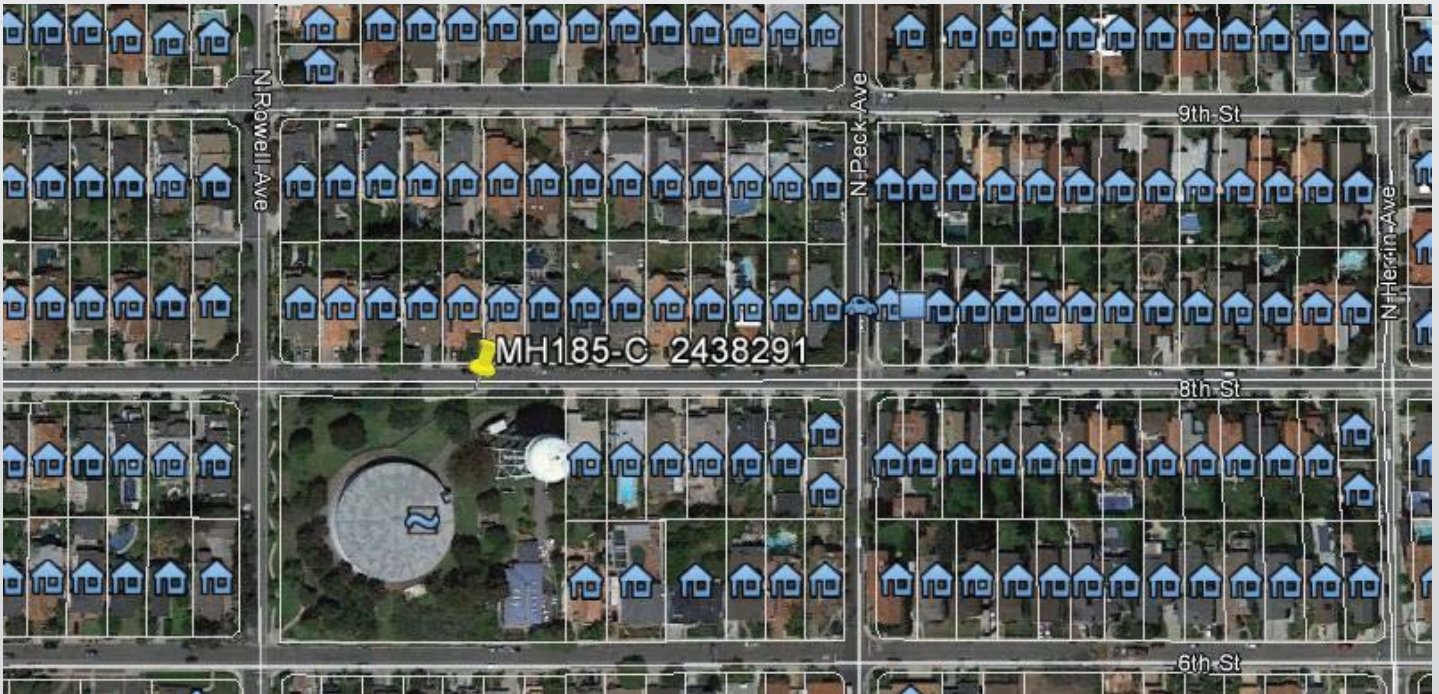
Notes

4 Feet South of the South Edge of Pavement of 32nd St.
2 Feet West of the West Curbside of Highland Ave.

Attachment – SCE Street Light

ADVANCEDmeter

MH185-C



On 8th Street; South of 1427 8th Street

Notes

467 Feet West of the West Curbside of N Peck Ave.
3 Feet South of the South Curbside of 8th St.

New Installation – 26' Concrete Pole

ADVANCEDmeter



MH185-C

Pole will be approximately
26 feet, 4 inches tall



On 8th Street; South of 1427 8th Street

Notes

467 Feet West of the West Curbside of N Peck Ave.
3 Feet South of the South Curbside of 8th St.

New Installation – 26' Concrete Pole



Contact Information

- To learn more about the project, visit:

socialgas.com/advanced

Or Contact:

- Site Acquisition Manager
 - Shaun Baptiste
 - 310-755-8792
 - SBaptiste@semprautilities.com
- Public Affairs Manager
 - Marcella Low
 - (310) 605-4194 Office
 - (310) 613-8875 Cell
 - MLow@semprautilities.com



Exhibit 4
Municipal Code Chapter 7.36

Chapter 7.36 - PRIVATE USE OF THE PUBLIC RIGHT OF WAY

7.36.010 - Scope and intent.

The provisions of this chapter shall govern use of the public right of way by private parties. The intent of these standards is to allow private use and development of the public right of way with improvements that are functional, attractive and non-obtrusive to the public, consistent with building safety and public works standards, and compatible with public facilities and surrounding developments.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.020 - Definitions.

"Adjoining property" means the private property located immediately adjacent to the section of public right of way to be encroached upon.

"Applicant" means any person, firm, partnership, association, corporation, company, entity or organization of any kind who proposes to encroach upon a public place, right of way, sidewalk or street and who has applied for a permit for the proposed encroachment, pursuant to the provisions of this chapter.

"Director of Community Development" means the Director of Community Development of the City of Manhattan Beach or his or her designee.

"Director of Public Works" means the Director of Public Works of the City of Manhattan Beach or his or her designee.

"El Porto Strand Property" means a property located on the Strand between 39th Street and 45th Street.

"Encroachment area" means the section of public right of way located between the property line and the edge of the walkway or roadway.

"Encroachment" means and includes any paving, obstruction, fence, stand, building, entry monument, or any structure or object of any kind or character which is placed on, in, along, under, over or across a public place, right of way, sidewalk or street by or for the use of the adjoining property.

"Encroachment work" means the work of constructing, placing or installing an encroachment.

"Engineer" means the Manhattan Beach City Engineer or his or her designee.

"Excavation" means any opening in the surface of a public place, right of way, sidewalk or street made in any manner whatsoever. The term shall also include any excavation on private property which removes or imperils the lateral support of a public place, right of way, sidewalk or street.

"Landscaping" means an area devoted to or developed and maintained with lawn, gardens, trees, shrubs and other plant materials and excluding decorative outdoor landscape elements such as water features, paved surfaces, potted plants and sculptural elements.

"Natural grade" means a straight line from the edge of the improved public walkway/roadway grade to the existing front property line grade.

"Nonconforming" means a previously permitted and constructed improvement which is not consistent with the standards of this chapter.

"Occupy" means owning or operating any facilities that are located in rights of way.

"Open design fence" means a fence where the primary fence material is transparent and colorless, or the open spaces between the solid segments are equal to or exceed the size of the solid segments.

"Overhead structures" means any improvement extending over a public place, right of way or street.

"Person" means any living individual, any corporation, joint venture, partnership, or other business entity.

"Public walkway" means the portion of the public right of way improved and designated by the City for pedestrian travel.

"Right of way" means the surface and space in, on, above, through and below any real property in which the City of Manhattan Beach has a legal or equitable interest whether held in fee or any other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, curb, parkway, river, tunnel, viaduct, bridge, public easement, or dedicated easement.

"Usable surface" means a relatively level surface intended for active recreation, passive occupation, or pedestrian access including but not limited to lawns, patios and decks, but excluding a walkway not exceeding forty-four inches (44") in width that provides access from the public walkway to private property.

"Walk street" means a dedicated public street improved with a public walkway that is closed to vehicular traffic.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.030 - Permit required.

It shall be a violation of this chapter for any person to construct, create, occupy or use an encroachment in the public right of way without an encroachment permit. To the extent permitted by law the issuance of such a permit shall be discretionary and may be denied or revoked without cause. Application of this chapter shall include, but not be limited to, private improvements, long-term commercial use and commercial sidewalk dining, temporary access for installation of private street improvements and all other intrusions into the public right of way whether temporary or permanent. The City Council may, from time to time, by resolution set fees for issuance of encroachment permits authorized by this chapter.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.040 - Initiation.

The Director of Community Development shall have the authority to issue an encroachment permit consistent with the standard set forth in this chapter provided that where fixtures or structures located within public walkways or roadways, other than temporary moveable structures, are to be placed in the public right of way, or street alterations are to be performed, detailed plans for any such work shall be submitted to the Director of Public Works whose approval shall be required.

Applications shall be submitted to the Community Development Department with the required forms, fees, plans, and related material. Applications shall be reviewed for compliance with the requirements of this chapter, and the public's priority for use of City right of way as determined to be appropriate by the Director of Public Works.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.050 - Director of Public Works Authority.

The Director of Public Works shall have the authority to prohibit or limit the placement of new or additional facilities within the right of way if there is insufficient space to accommodate the requests of applicants to occupy and use the right of way. In reaching such decisions, the Director of Public Works shall be guided primarily by: considerations of the public interest; the age and condition of the affected portions of the rights of way; the time of year and the protection of existing facilities in the right of way; and future City plans for public improvements and development projects that have been determined to be in the public interest

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.060 - Permit conditions.

A. **Discretionary Conditions.** The Director of Community Development shall have the authority to condition or restrict the permit in any way which shall protect the public health and welfare. The Director of Community Development reserves the right to require phasing of construction projects or limit the hours of construction to reduce the adverse impacts on the public health, safety and welfare. The Director of Public Works has the authority to approve or reject a method of excavation or other construction methodology.

B. **Mandatory Conditions.** In granting an encroachment permit under the provisions of this chapter, the following conditions, in addition to any other conditions deemed necessary or advisable, shall be imposed:

1. That the encroachment shall be removed or relocated by the permittee at no cost to the City upon thirty (30) days' written notice to the permittee from the City, and should any cost be incurred by the City in the removal of such encroachment, such cost shall be a lien upon the permittee's adjacent real property;
2. That the encroachment and permit restrictions, conditions or limitations serving the adjoining property shall be recorded as a covenant, and shall be binding upon all heirs, successors, assigns, executors, or administrators in interest. The covenant shall be disclosed whenever title is transferred;
3. That a certificate of insurance in amounts and form satisfactory to the City Risk Manager shall be filed with the City upon the granting of the encroachment and shall be maintained in good standing at all times so long as the encroachment exists, releasing the City from any and all liability whatsoever in the granting of such encroachment.
4. That the applicant shall expressly agree to each of the conditions imposed, including any which may be in addition to the foregoing, as a prerequisite to the granting of the encroachment by the City.
5. That encroachments involving commercial uses shall pay an established annual or monthly fee to be set by resolution of the City Council and to be based upon the market value of the property being occupied.
6. That in cases where an encroachment is adjacent to a private property common area governed by a Homeowners Association (as in the case of an airspace condominium) the Homeowners Association shall be the applicant and subject to all permit requirements. The permit requirements shall be included as conditions of the project subdivision map and included in the covenants, conditions and restrictions (C, C and R's) recorded for the project.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.065 - Required findings.

The Director of Community Development, in granting approval of an encroachment permit application, shall make the following findings:

- A. The granting of the encroachment permit will not be materially detrimental to the public health, safety, convenience, and welfare or injurious to property and improvements in the same vicinity and zone in which the property is located;
- B. The granting of the encroachment permit will be in conformity with the policies and goals of the General Plan;
- C. The proposed encroachment will comply with the provisions of this chapter, including any specific condition required;
- D. The proposed encroachment will not encroach into the area of the right of way occupied by an improved paved sidewalk or pedestrian or vehicular accessway or stairway, except as expressly provided in this chapter;
- E. The proposed encroachment will not reduce or adversely impact public pedestrian access along the paved and improved portion of the sidewalk, walk street, alley or stairway and does not reduce or adversely impact the vehicular access along the improved alley.
- F. For properties that are located in the coastal zone, the proposed encroachment will be consistent with the public access and recreation policies of [Chapter 3](#) of the California Coastal Act of 1976, as follows:
 1. The proposed encroachment will not impact public access to the shoreline, adequate public access is provided and shall be maintained in the public right of way adjacent to the subject property (Section 30212 (a)(2)).
 2. The present end foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area (Section 30221).

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.070 - Issuance.

The Director of Community Development shall issue a written decision regarding each encroachment permit application. This decision shall recite the findings upon which the decision is based as provided in [Section 7.36.065](#) of this chapter. If the decision grants the encroachment, it shall set forth the conditions to be imposed. The conditions set forth in [Section 7.36.060](#)(b) of this chapter shall be attached to every permit approval. The decision of the Director of Community Development shall be final ten (10) calendar days after mailing a copy of the decision to the applicant.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.080 - Appeals.

Applications which are inconsistent with the "Encroachment Standards" set forth in [Section 7.36.150](#), including right of way frontage improvements required as a condition of approval by the Director of Public Works, must be appealed to and approved by the City Council with a recommendation from the Parking and Public Improvements Commission. A notice shall be sent to the property owners whose lots' front property

lines are within three hundred feet (300') of the subject encroachment area site at least ten (10) calendar days prior to each body's consideration of the exception request. The notice will describe the proposed encroachment, make the plans available for review, and set a deadline for registering objections. Upon consideration of such an appeal application, the City Council may approve, modify, or disapprove the application for encroachment. The action of the City Council shall be final.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.090 - Time limit.

Any encroachment granted pursuant to the provisions of this chapter shall be developed and utilized within a period not to exceed twelve (12) months from and after the date of the granting of such encroachment, and, if not so developed and utilized, such encroachment automatically shall become null and void at the expiration of such twelve (12) month period.

The permittee may apply in writing for one extension of time, not to exceed six (6) months, within which to develop and use such encroachment. The Director of Community Development, in his or her sole discretion after due consideration, shall either grant or deny the extension of time for such development and use.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.100 - Inspection.

The Director of Community Development shall require that inspections be completed before commencement, and after completion of encroachment work. Inspections while encroachment work is in progress shall be completed as determined to be appropriate by the Director of Community Development or Director of Public Works.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.105 - Restoration of public right of way.

Upon completion of the encroachment work authorized by a permit, the permittee shall restore the right of way or street by replacing, repairing or rebuilding it in accordance with the specifications or any special requirement included in the permit, but not less than to its original condition before the encroachment work was commenced and in all cases in good usable quality. The permittee shall remove all obstructions, materials and debris upon the right of way and street, and shall do any other work necessary to restore the right of way and street to a safe and usable condition, as directed by the Director of Public Works. Where excavation occurs within areas already paved, the Director of Public Works may require temporary paving to be installed within four hours after the excavation area is backfilled. In the event that the permittee fails to act promptly to restore the right of way and/or street as provided in this section, or should the nature of any damage to the right of way or street require restoration before the permittee can be notified or can respond to notification, the Director of Public Works may, at his or her option, make the necessary restoration and the permittee shall reimburse the City for the full cost of such work, and such cost shall be a lien upon the permittee's adjacent real property.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.110 - Revocation.

The Director of Community Development or the City Council may revoke any encroachment permit for noncompliance with the conditions set forth in granting such encroachment, including but not limited to provision of liability insurance coverage to the City or if it is determined that such permit is not in the public interest. A written notice shall be mailed to the permittee of such revocation. Within ten (10) working days of mailing of such notice of revocation to the permittee, a written appeal of such action may be filed. Any such appeal shall be made to the Parking and Public Improvements Commission whose recommendation will be reviewed by the City Council and the Council's determination of the matter shall be final.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.120 - Enforcement.

Violation of this chapter shall be punishable as a misdemeanor as set forth in [Section 1.04.010\(A\)](#) of this Code. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a separate violation of such provision. In addition to any other remedies provided in this section, any violation of this chapter may be enforced by civil action brought by the City. In any such action, the City may seek, as appropriate, any or all of the following remedies: a temporary and/or permanent injunction; assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection; costs incurred in removing, correcting, or terminating the adverse effects resulting from violation; compensatory damages; and attorney fees.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.140 - Other permits.

Nothing in this chapter shall preclude a requirement for a Coastal Development Permit, Business License, Conditional Use Permit, or other City, State or County permit if otherwise required for the encroaching activity. See Chapter A.96 of the Manhattan Beach Local Coastal Program Implementation Program for applicable Coastal Development Permit requirements.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.150 - Encroachment standards.

A.

General Standards:

1. Structures as defined by the City's Building Code or other encroachments are prohibited from encroaching within the public right of way unless in compliance with these standards or approved by the City Council.
2. Landscaping is permitted without an encroachment permit in accordance with an approved landscape plan pursuant to [Section 7.32.080\(E\)](#) of the Municipal Code. Artificial landscape materials, except artificial turf grass approved by the Director of Community Development, are prohibited.
3. Utility obstructions shall be avoided so as to maintain access to underground utilities. A minimum of thirty inches (30") of clearance is required on each side of all water and sewer mains, unless otherwise approved by the Director of Public Works.
4. Drainage from a private collection system that discharges a concentrated flow shall be directed to a vehicular street or alley pursuant to Public Works Department construction standards and shall be

prohibited from flowing onto a public pedestrian walkway or sidewalk. A drainage plan shall be provided with an application for an encroachment permit.

5. All encroachments shall be in conformance with [Title 5, Chapter 5.84](#) of the Municipal Code pertaining to storm water pollution control.

6. Obstructions to neighboring resident's scenic views shall be avoided.

7. Steps and Stairs, other than risers between four and seven inches (4" to 7") in height and spaced a minimum of three feet (3') apart, are not permitted in the public right of way.

Exception. One (1) set of steps comprised of three (3) consecutive risers is permitted provided a condition does not result that requires installation of a guardrail or handrail.

8. Existing improvements which do not conform to current standards must be removed or brought into conformance if the related structure on the adjoining property is significantly remodeled or reconstructed or if any new significant construction is proposed in the public right of way. Existing permitted improvements that have been made non-conforming by changes to these standards may otherwise remain provided any nonconforming element is not increased or expanded. The intent is to cause nonconforming encroachments to be brought into conformity concurrent with major alterations or entirely new structures constructed on adjoining private property.

9. Routine maintenance and repair may be performed on a nonconforming encroachment structure or improvement and replacement with a comparable improvement is permitted upon demonstration that the encroachment is deteriorated and creating an unsafe condition.

B.

Walk Street Standards:

1. Fences and railings, including required safety handrails and guardrails, are permitted provided an open design is utilized. The maximum allowable height is forty-two inches (42") above the adjacent public walkway. To ensure pedestrian to vehicle visibility at corners, a thirty-six inch (36") maximum height (measured from adjacent curb level) is required within a distance of five feet (5') from the street corner.

2. Retaining walls (not including walkway risers), free-standing walls and closed design fences are permitted provided the maximum allowable height is thirty-two inches (32") above the adjacent public walkway. Conditions requiring guardrails that exceed the height permitted in subsection (B)(1) above shall not be permitted.

Exception. Retaining walls and related required safety railing that exceed the thirty-two inch (32") limit may be constructed at the side boundaries of an encroachment area if necessary to retain a neighbor's existing grade, provided all other encroachment improvements comply with applicable encroachment standards. If subsequently such over-height walls and/or safety rails are no longer necessary due to modification of the adjoining encroachment area, the property owner shall lower the over-height wall/safety rail to conform with applicable standards. This requirement shall be included as a permit condition in the encroachment permit agreement.

3. Landscaping is permitted subject to approval of a landscape plan pursuant to [Section 7.32.080\(E\)](#) and shall be submitted with an encroachment permit. Landscaping shall cover a minimum of one-third of the encroachment area and shall not project over or onto the public walkway. To promote visual openness and conserve scenic vistas, the height of landscape plantings shall not exceed forty-two inches (42") as measured from the adjacent public walkway.

Landscape plantings shall be maintained in substantial conformance with the approved plan. If it is determined that a resident view is impaired, the Director of Community Development shall direct the owner of the property adjacent to the encroachment landscaping to trim the over-height landscaping to forty-two inches (42") maximum. Should the property owner fail to act, the Director of Community Development may cause the landscaping to be trimmed, with the expense borne by the property owner. The owner of the property who receives such notice to trim may appeal the decision of the Director of Community Development pursuant to [Section 7.36.070](#) of this chapter.

4. Usable surfaces (as defined herein). The intent of this standard is to ensure that the elevation of encroaching outdoor living areas located nearest the public walkway be consistent with the public walkway. Usable surfaces are permitted as follows:
 - a. Within the front half of the encroachment area (adjacent to the public walkway), limited to a maximum height of twelve inches (12") as measured above or below the adjacent public walkway.
 - b. Within the rear half of the encroachment area (adjacent to private property), limited to a maximum height of either: thirty-six inches (36") as measured above or below the adjacent public walkway, or twelve inches (12") as measured above or below the natural grade, as defined herein.
5. The total combined height of fences, railings, retaining walls (including walkway risers) shall not exceed a height of forty-two inches (42") as measured from lowest adjacent finished grade.
6. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular alley or street via a non-erosive device pursuant to Public Works Department construction standards except as permitted by the Director of Public Works.

C. **El Porto Strand Standards:** In addition to the encroachments permitted in subsection B above, the following encroachments are permitted within the Strand right of way north of Rosecrans Avenue due to unusual slope and underground utility location and to provide an adequate buffer between the Strand walkway and adjoining private properties.

1. Usable surfaces are permitted within the rear half of the encroachment area at a maximum height of seventy-two inches (72") measured from the adjacent public walkway, provided they are accompanied by terraced landscape planters with evenly spaced retaining walls with a maximum height of thirty inches (30") each.
2. Fences and walls are permitted to be a maximum height of forty-two inches (42") above the adjacent public walkway except that planter walls required in subsection (C)(1) above may have a maximum height of seventy-two inches (72").
3. Corner properties bordering a parking lot entrance or exit are allowed to have walls and fences on the vehicular street side to a maximum height of six feet (6') above adjacent curb level except that a maximum height of three feet (3') shall be permitted adjacent to driveway/roadway intersections.
4. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular alley or street via a non-erosive device pursuant to Public Works Department construction standards.
5. Landscaping is permitted subject to approval of a landscape plan pursuant to [Section 7.32.080\(E\)](#) and shall be submitted with an encroachment permit.

D. **Vehicular Street Standards:**

1. Street improvements, including (but not necessarily limited to) sidewalks, curbs, gutters, parking pads and paving may be required by the Public Works Department for the purpose of maintaining or improving conditions related to drainage, visibility, access, maneuverability or public parking, and, if required, shall be constructed in compliance with City standards.
2. Fences and walls are permitted as follows:
 - a. Location. Compliance is required with Public Works Department standards established in MBMC [9.72.015](#). A minimum set back of two feet (2') is required behind existing or required street improvements.
 - b. Height. Fences and walls may not exceed a maximum height of forty-two inches (42"), measured from the existing public right of way grade at the fence or wall location. Open-design fences or guard rails required by the Building Official to exceed the forty-two inch (42") maximum height are allowed on top of retaining walls if necessary to retain a neighbor's grade at a side property line. Fences and walls located near the intersection of streets or driveways may be subject to lower height requirements to ensure traffic visibility.

3. Ground cover such as pavement (including brick or other decorative surfaces) and landscaping is permitted on the existing right of way grade. Decks or similar structures are prohibited.
4. Street Corner Visibility. To ensure visibility at street corners a thirty-six inch (36") maximum height is applicable to all fences, walls or landscape plantings within a distance of fifteen feet (15') from the street corner as per MBMC [3.40.010](#) (Traffic Sight Obstructions). A height less than thirty-six inches (36") may be applicable due to unusual slope conditions.
5. Significant alteration of the existing right of way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement.
6. Loose gravel and similar material as determined by the Public Works Department is not permitted.
7. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular street right of way location via a non-erosive device pursuant to Public Works Department standards subject to review and approval of the City Engineer.
8. Landscaping is permitted subject to approval of a landscape plan pursuant to [Chapter 7.32.080 E](#) and shall be submitted with an encroachment permit.

(§ 1, Ord. 2039, eff. February 18, 2003, as amended by § 3, Ord. 2146, eff. August 4, 2011)

7.36.160 - Sidewalk dining encroachment permits.

Sidewalk dining adjacent to existing restaurants may be permitted on public sidewalks within vehicular street right of ways with a sidewalk dining encroachment permit issued pursuant to this section. The purpose of the sidewalk dining permit program is to promote restaurant and pedestrian oriented activity within the City's business areas, while safeguarding public safety and minimizing impacts to nearby residential properties. Permits may be modified or revoked by the City Council if the applicant repeatedly fails to comply with any of the above requirements, or if the public's priority for use of City right of way causes the previously approved sidewalk dining use to be found to be inappropriate.

Each permit issued for sidewalk dining shall comply with the following minimum standards:

- A. All permits are subject to temporary modification or suspension at any time based on the public's priority for use of City right of way as determined to be appropriate by the Chief of Police or Director of Public Works.
- B. Title 24 of the California Government Code regarding persons with disabilities requirements for unobstructed sidewalk width (minimum forty-eight inches (48")) must be maintained at all times.
- C. Applicants and their customers may not place any objects in the right of way other than tables and chairs (no umbrellas, heaters, or bikes/dogs tied to parking meters, etc.)
- D. Exterior lighting equipment that may present a tripping hazard is not permitted.
- E. Temporary electrical connections, such as extension cords, are not permitted.
- F. Alcoholic beverages may not be served or consumed in the sidewalk dining area.
- G. Dancing is prohibited.
- H. Amplified music is prohibited.
- I. Dining activities must conclude by 10:00 p.m. Tables and chairs must be removed from the sidewalk by 10:30 p.m.
- J. All exits and means of egress from establishments and businesses must be maintained and not obstructed in any manner.
- K. Sidewalk dining activities must comply with all Use Permit and zoning requirements (parking, occupancy, etc.).
- L. Only existing tables used inside the restaurant may be used for sidewalk dining unless additional parking and zoning approval is provided in accordance with the Municipal Code.

- M. The portion of sidewalks used for dining must be cleaned regularly and consistently kept free of litter by the applicant.
- N. The applicant must provide an insurance endorsement and complete a Hold Harmless agreement, to the satisfaction of the City Risk Manager.
- O. The applicant must submit an application for a permit and pay an established permit fee as set forth by resolution of the City Council.
- P. Permits are issued to business owners rather than property owners and are not considered an entitlement to the adjacent private property. New business owners must apply for a new permit.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.170 - Long-term commercial use encroachment permits.

- A. Commercial use of the public right of way requires City Council approval.
Exceptions. The Director of Community Development may approve the following:
 - a. Sidewalk dining permits applicable to vehicular streets in conformance with [Section 7.36.110](#) of this chapter.
 - b. Building projections such as eaves, awnings, signs or elements that benefit the public and comply with applicable codes.
 - c. Roof access or other elements for existing buildings that are required by applicable codes, when alternative on-site locations are not feasible.
- B. Commercial use of a walk street is prohibited. Existing long-term uses conducted on a walk street under the authority of an Encroachment Permit approved prior to January 21, 2003 may continue to operate provided the use is not expanded or intensified. Expansion of intensification includes but is not necessarily limited to: increase of floor area or expansion of hours of operation, or addition of alcohol beverage service.

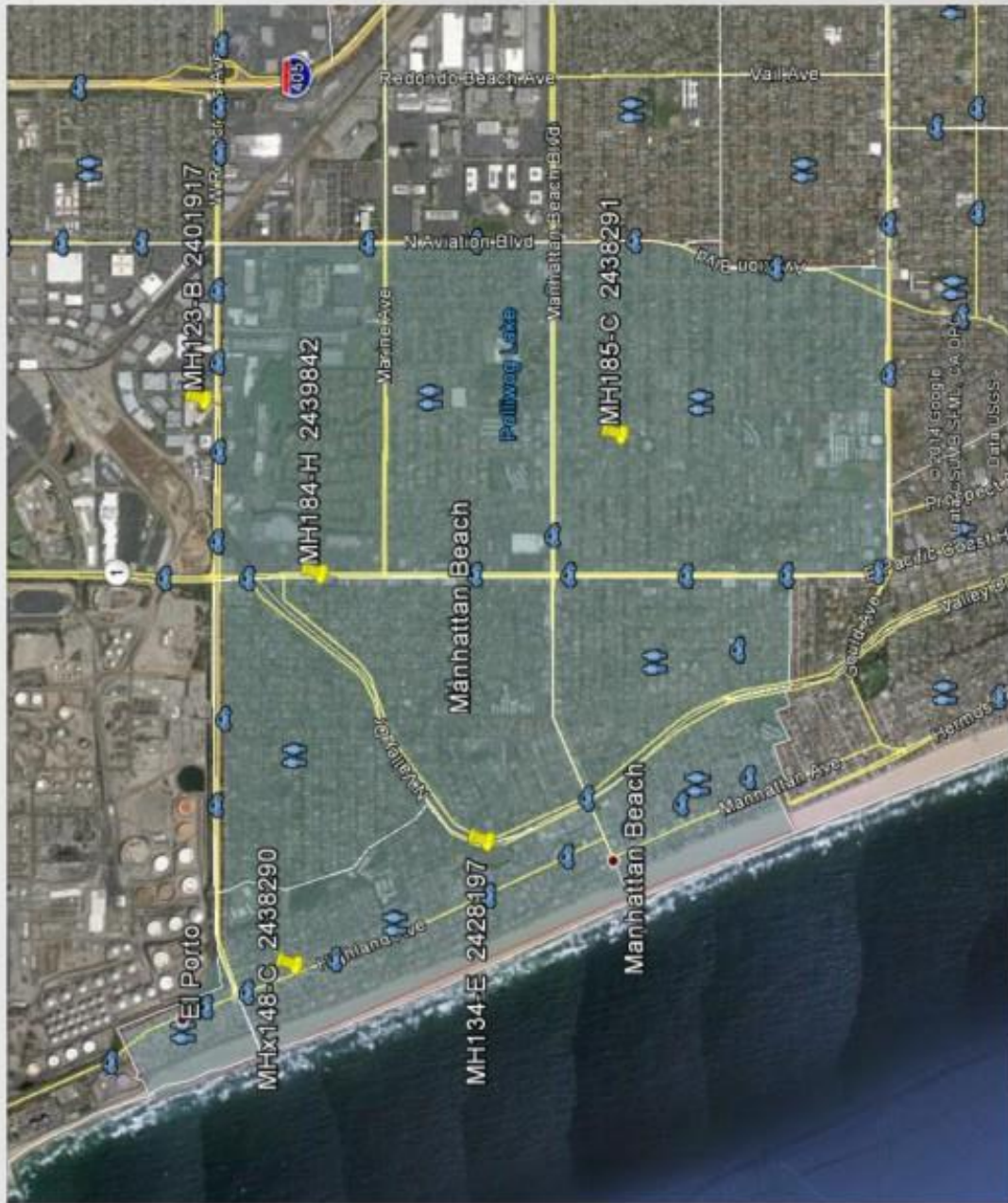
(§ 1, Ord. 2039, eff. February 18, 2003)

Exhibit 5
PRIVATE ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY
REQUIRED FINDINGS AND GENERAL STANDARDS
Proposed Gas Company Pole on 8th Street East of Rowell Avenue

REQUIRED FINDINGS PER SECTION 7.36.065	COMMENTS	MEETS FINDING?
Not materially detrimental to the public health, safety, convenience and welfare or injurious to property and improvements in the same vicinity and zone in which the property is located.	Similar to other utility poles in vicinity.	YES
In conformity with the policies and goals of the General Plan.		YES
Complies with the provisions of this chapter, including any specific condition required.	Applicant will comply with any code conditions.	YES
Will not encroach into the area of the right of way occupied by an improved paved sidewalk or pedestrian or vehicular accessway or stairway, except as expressly provided in this chapter.	Proposed pole is outside public right-of-way	YES
Will not reduce or adversely impact public pedestrian access along the paved and improved portion of the sidewalk, walk street, alley or stairway and does not reduce or adversely impact the vehicular access along the improved alley.	Proposed pole is behind existing or future sidewalk area.	YES
For properties that are located in the coastal zone, the proposed encroachment will be consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976.	Proposed location is not in coastal zone.	N/A
GENERAL STANDARDS		
Structures as defined by the City's Building Code or other encroachments are prohibited from encroaching within the public right of way unless in compliance with these standards or approved by the City Council.	Proposed pole is outside public right-of-way and conforms to standards	YES
Artificial landscape materials, except artificial turf grass approved by the Director of Community Development, are prohibited.	No artificial landscaping is proposed.	N/A
Utility obstructions shall be avoided so as to maintain access to underground utilities. A minimum of thirty inches (30") of clearance is required on each side of all water and sewer mains, unless otherwise approved by the Director of Public Works	Proposed location not in conflict with existing or future foreseeable utilities.	YES
Drainage from a private collection system that discharges a concentrated flow shall be directed to a vehicular street or alley pursuant to Public Works Department construction standards and shall be prohibited from flowing onto a public pedestrian walkway or sidewalk. A drainage plan shall be provided with an application for an encroachment permit.	No private collection system is proposed.	N/A
All encroachments shall be in conformance with Title 5, Chapter 5.84 of the Municipal Code pertaining to storm water pollution control.	All work will conform to store water pollution control.	YES
Obstructions to neighboring resident's scenic views shall be avoided.	Proposed pole located near a taller water tower and will be installed near existing trees to shield view of pole.	YES
Steps and Stairs, other than risers between four and seven inches (4" to 7") in height and spaced a minimum of three feet (3') apart, are not permitted in the public right of way.	No stairs are proposed.	N/A

Existing improvements which do not conform to current standards must be removed or brought into conformance if the related structure on the adjoining property is significantly remodeled or reconstructed or if any new significant construction is proposed in the public right of way. Existing permitted improvements that have been made non-conforming by changes to these standards may otherwise remain provided any nonconforming element is not increased or expanded. The intent is to cause nonconforming encroachments to be brought into conformity concurrent with major alterations or entirely new structures constructed on adjoining private property.	No existing improvements	N/A
Routine maintenance and repair may be performed on a nonconforming encroachment structure or improvement and replacement with a comparable improvement is permitted upon demonstration that the encroachment is deteriorated and creating an unsafe condition.	No existing private encroachment.	N/A
Fences and walls are permitted as follows: a. Location. Compliance is required with Public Works Department standards established in MBMC 9.72.015. A minimum set back of two feet (2') is required behind existing or required street improvements. b. Height. Fences and walls may not exceed a maximum height of forty-two inches (42"), measured from the existing public right of way grade at the fence or wall location. Open-design fences or guard rails required by the Building Official to exceed the forty-two inch (42") maximum height are allowed on top of retaining walls if necessary to retain a neighbor's grade at a side property line. Fences and walls located near the intersection of streets or driveways may be subject to lower height requirements to ensure traffic visibility.	No fences are proposed.	N/A
Ground cover such as pavement (including brick or other decorative surfaces) and landscaping is permitted on the existing right of way grade. Decks or similar structures are prohibited.	No ground cover is proposed.	N/A
Street Corner Visibility. To ensure visibility at street corners a thirty-six inch (36") maximum height is applicable to all fences, walls or landscape plantings within a distance of fifteen feet (15') from the street corner as per MBMC 3.40.010 (Traffic Sight Obstructions). A height less than thirty-six inches (36") may be applicable due to unusual slope conditions	Pole location not located near any street corner.	YES
Significant alteration of the existing right of way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement.	No alteration of grade is proposed.	YES
Loose gravel and similar material as determined by the Public Works Department is not permitted.	No gravel or other ground cover proposed.	YES
Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular street right of way location via a non-erosive device pursuant to Public Works Department standards subject to review and approval of the City Engineer.	No private collection system is proposed.	N/A
Landscaping is permitted subject to approval of a landscape plan pursuant to Chapter 7.32.080 E and shall be submitted with an encroachment permit.	No landscaping is proposed.	N/A

Final Site Selections - 5 Data Collector Units

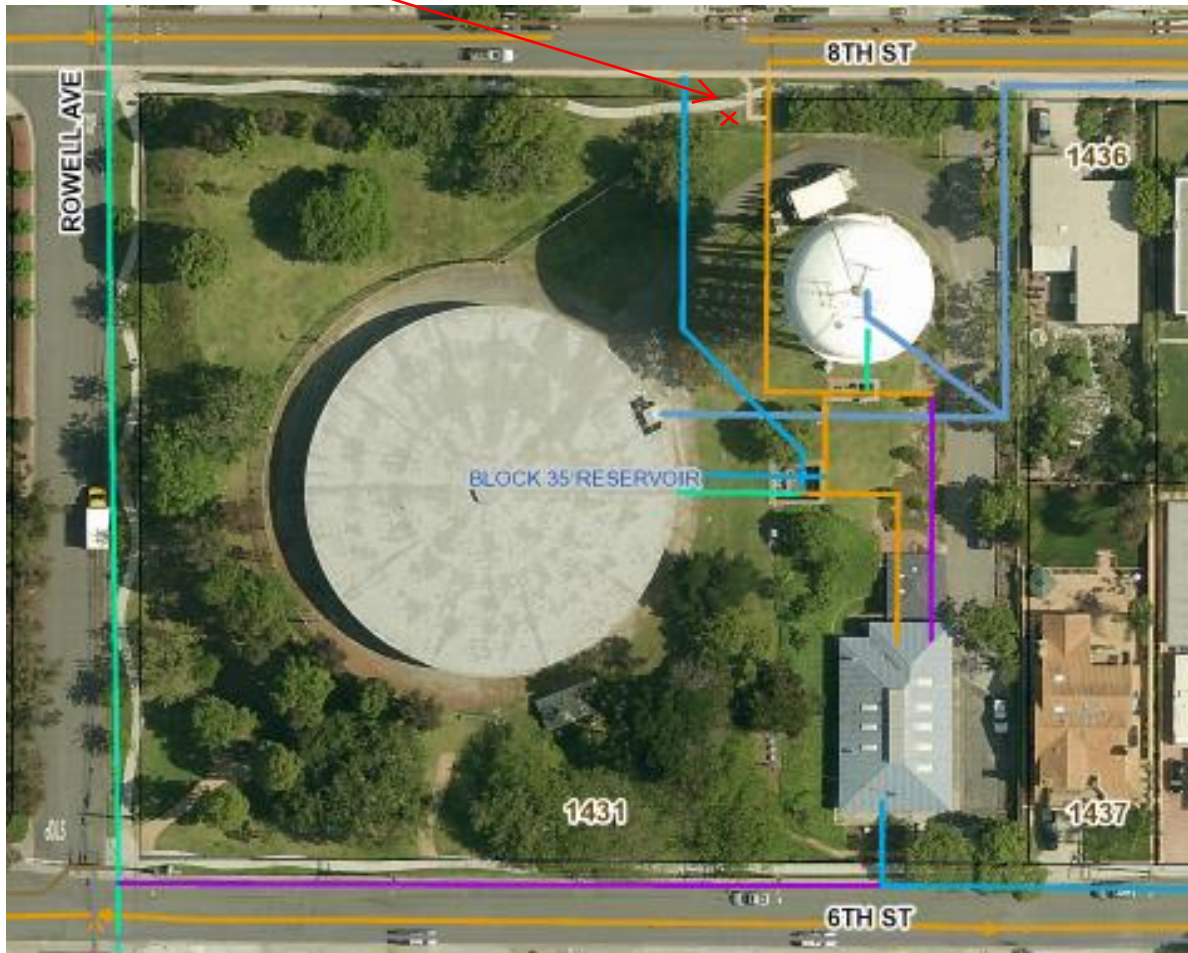


Attachment 2 Location Map



8th Street and Rowell Pole Location Map

New Pole located 17 to 20 feet behind the south curb of 8th Street



Agenda Date: 1/20/2015

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Tony Olmos Director of Public Works
Joe Parco, City Engineer
Ismael Medrano Engineering Technician II

SUBJECT:

Approval of Plans and Specifications for the Downtown Crosswalk Replacement and Slurry Seal Project (Interim Streetscape Improvements), Declare the Low Bid Non-Responsive and Award a Construction Contract to PALP Inc. dba EXCEL Paving Company for the Downtown Crosswalk Replacement and Slurry Seal Project (\$876,563.50) (Public Works Director Olmos).

APPROVE

RECOMMENDATION:

Staff recommends that the City Council:

1. Approve the plans and specifications for the Downtown Crosswalk Replacement and Slurry Seal Project;
2. Declare the apparent low bid as a non-responsive bid; and
3. Award a contract to the lowest responsive bidder (PALP Inc. dba EXCEL Paving Company) in the amount of \$876,563.50 for the Downtown Crosswalk Replacement and Slurry Seal Project.
4. Authorize the City Manager to approve additional work, if necessary, in an amount not-to-exceed \$87,656.35 (10%)

FISCAL IMPLICATIONS:

Funds for this project have been appropriated by City Council through the fiscal year (FY) 2015-2019 Capital Improvement Plan under the projects titled: "Downtown Street Improvements: Tile Crosswalk Replacement" and "Downtown Street Improvements: Pavement Rehabilitation & Traffic Striping". Attachment 1 indicates project appropriations.

BACKGROUND:

The City's downtown streetscape improvements were constructed approximately 30 years ago. Through the years, tiles in the crosswalk area have cracked and broken loose causing City crews to continuously monitor for missing tiles and fill voids when detected. The blue granite tiles are also no longer available, which creates a non-uniform appearance when replacement of existing tiles are required. To address this deficiency, a Capital Improvement Program (CIP) project was created and approved by City Council in a previous year.

At the March 4, 2014 Council meeting, staff discussed the latest CIP and highlighted the challenging conditions of the downtown streetscape area. At the meeting, there was general concern by City Council that the approved CIP project did not appear to address the overall appearance of the downtown. Staff mentioned that the scope of the approved CIP was to only improve the condition of the existing street and crosswalks, but would not include the comprehensive transformation of the downtown streetscape. Since the City Council expressed a larger concern with the existing poor condition, staff recommended that City move forward with the approved CIP project, but to treat it as an interim project, with the understanding that a comprehensive project may come forward in the future.

As a result, staff presented a number of replacement and material options for the existing crosswalks. At the meeting, City Council directed staff to replace the blue granite tiles with a stamped colored asphalt pattern similar to the existing 2"x 2" tile pattern and color. City Council also concurred with the scope of the other improvements, which include reconstruction of damaged and uplifted sidewalk, curb, gutter, and minor street repair and slurry sealing of the downtown area. Direction was also given to improve the appearance of the existing traffic signal and pedestrian heads in the downtown area, which will be performed under a separate contract.

In terms of future visioning for the downtown streetscape, the City Council approved a contract with the Urban Land Institute (ULI) to enlist the services of their 5-Day Advisory Services Panel to develop a vision for the Downtown. ULI completed their work and presented a list of recommendations to the community that included several items regarding streetscape and other design elements for the downtown. City Council will be discussing this vision and will be deciding on next steps in the coming months.

Finally, it should be noted that much of this project can be considered pre-work towards a future comprehensive project. The crosswalks are being reconstructed with asphalt since asphalt can be easily removed if a future comprehensive project dictates a different crosswalk design. The project also includes labor-intensive work to remove the existing concrete within the existing crosswalks, which would most certainly be required as part of a future project as well. The remaining work to repair and slurry the existing street pavement will also benefit a future project.

Environmental Review

The California Environmental Quality Act (CEQA) requires public agencies to document and consider the environmental implications of their actions. Based on the scope of work, the project is categorically exempt pursuant to Section 15301, Class 1(c). The project consists of a repair to existing streets, sidewalks, curb and gutter. A Notice of Exemption has been filed

with the Los Angeles County Clerk's office for the project.

DISCUSSION:

Bid Proposals

Bids were solicited on an open competitive basis in accordance with the provisions of the State Public Contract Code. The State Labor Code requires contractors to pay prevailing wage rates to all persons employed on public works construction contracts. These rates are determined by the Department of Industrial Relations and include contributions for fringe benefits such as vacations, pension funds, training, and health plans for each employee.

This project was advertised for bids in eight (8) construction industry publications. To further increase contractor awareness of public works contracting opportunities, this project was listed on the City's website for upcoming bids.

The following three (3) competitive bids were received and opened on January 14, 2015, which included the base bid plus a bid alternate: \$517,698.20 from Ruiz Concrete and Paving, \$940,313.50 from PALP Inc. dba EXCEL Paving Company (EXCEL), and \$950,046.60 from All American Asphalt. The apparent low-bidder was Ruiz Concrete and Paving. After review of their bid as further described below, their bid was deemed non-responsive. EXCEL then became the apparent low-bidder.

The bid alternate was for Portland Cement Concrete Joint Seal. This bid alternate was deleted from the final contract award amount given the higher than expected bid amounts for this work. As allowable under the Public Contract Code section 20103.8, this item will not be included in the contract award amount and the lowest bid shall be determined by the lowest bid price on the base contract without consideration of the prices on the additive or deductive items. Bids for this bid alternate were \$15,000 from Ruiz Concrete and Paving, \$63,750 from PALP Inc. dba EXCEL Paving Company (EXCEL), and \$55,000 from All American Asphalt.

Nonresponsive Bid

The bid submitted by Ruiz Concrete and Paving Inc. was reviewed by the Public Works Department and found to be non-responsive. On Friday, January 16, 2015, City staff reviewed the submitted bid documentation and found that no subcontractors had been listed for specialty work required in the areas of Stamped Asphalt, Slurry Sealing and Traffic Control; all of which are required for this project. Ruiz Concrete and Paving Inc. has been contacted and acknowledged the bid to be non-responsive. The California Public Contract Code Sections 4100-4114 provide criteria under which the City can render a bid as non-responsive. The lack of listed subcontractor by the contractor on the bid document falls within this criteria.

Lowest Bid - EXCEL Paving Company

As a result of the disqualification of the bid by Ruiz Concrete and Paving Inc., City Staff reviewed the bid package from the second lowest bidder (EXCEL) and verified that their bid was responsive. Staff has contacted agencies contracted by EXCEL, and have received response that indicate positive work performed and satisfactory completion of work items. The current project was discussed with a representative of EXCEL and he expressed confidence in his bid and a desire to perform the work for this project. The final bid amount

minus the bid alternate is \$876,563.50.

Project Schedule

Upon approval of the award of contract, City staff anticipates that construction will start in mid-March 2015 and completed before the end of May 2015.

CONCLUSION:

It is recommended that the City Council approve the plans and specifications for the Downtown Crosswalk Replacement and Slurry Seal Project; declare the apparent low bid as a non-responsive bid; award a contract to the lowest responsive bidder (PALP Inc. dba EXCEL Paving Company) in the amount of \$876,563.50, and authorize the City Manager to approve additional work, if necessary, in an amount not-to-exceed \$87,656.35 (10%)

Attachments:

1. Downtown Crosswalk and Slurry Budget and Appropriations
2. Downtown Crosswalk Replacement Contract

Attachment No. 1
Budget and Appropriations

BUDGET FY 2015-19	Total
FY2015-2019 Downtown Streetscape Improvement Project – Tile Crosswalk Replacement (CIP 13823E) (Attachment 1)	\$825,000
FY2015-2019 Downtown Streetscape Improvement Project – Pavement Rehabilitation & Traffic Striping t (CIP 13824E) (Attachment 2)	\$315,000
Total Budget	\$1,140,000

Expenditures FY 2015-19		Total
PALP Inc. dba Excel Paving Co. (EXCEL)		
Total Base Bid (Bid Items 1 through 18)		\$876,563.50
Bid Additive Alternate Item – Joint Seal	\$63,750.00 *	
Total Contract Amount with EXCEL		\$876,563.50
10 % Construction Contingency		\$ 87,656.35
Total Project Expenditures		\$964,219.85

*Bid Additive Alternate Item deleted and not included in Contract Amount

Total Project Breakdown	Total
Total Budget	\$1,140,000.00
Total Expenditures	\$964,219.85
Balance Remaining	\$175,780.15

SPECIFICATION AND CONTRACT DOCUMENTS
FOR
CITY OF MANHATTAN BEACH, CALIFORNIA

Downtown Crosswalk Replacement and Slurry Seal Project

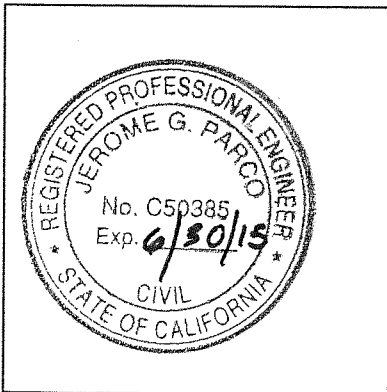


PLAN NO. SM-639
Sheets 1 to 24

Completion: 45 Working Days

PUBLIC WORKS DEPARTMENT
1400 Highland Avenue
Manhattan Beach, California 90266
www.citymb.info
Project Manager: Ish Medrano
Email: imedrano@citymb.info
Telephone: (310) 802-5357

STAMP:



Reviewed by:



Joe Parco, City Engineer

12/24/14

Date

CITY OF MANHATTAN BEACH

SPECIAL PROVISIONS

<u>Section</u>	<u>Subsection</u>	<u>Description</u>
Part 1		<u>General Provisions</u>
	1	Terms, Definitions Abbreviations & Symbols
	2	Scope and Control of Work
	3	Changes in the Work
	4	Control of Materials
	5	Utilities
	6	Prosecution Progress & Acceptance of Work
	7	Responsibilities of the Contractor
	8	Facilities and Agency Personnel
	9	Measurement and Payment
	10	Special Project Site Maintenance and Public Convenience and Safety
Part 2		<u>Construction Materials</u>
<u>210</u>		<u>Paint and Protective Coatings</u>
	210-1.5	Paint and Protective Coatings
	210-1.6	Paint for Traffic Striping, Pavement Marking, and Curb Marking
	210-1.6.1	General
	210-1.6.2	<u>Thermoplastic Paint, State Specifications</u>
	210-1.6.3	Rapid Dry White, Yellow, or Black Traffic Line Paint
	210-1.6.4	Ready-Mixed Traffic Stripe Paints
	210-1.6.5	Reflective Material
	210-1.6.6	Air Pollution
	210-1.6.7	Test Reports and Certification
Part 3		<u>Roadway Surfacing</u>
<u>302</u>		<u>Roadway Surfacing</u>
	302-3.7	Removing Loose Cover Materials
	302-4	Emulsions - Aggregate Slurry
	302-4.2	Mixing
	302-4.2.1	General
	302-4.2.2	Continuous Flow Mixers
	302-4.3	Application
	302-4.3.1	General
	302-4.3.2	Spreading
	302-4.4	Public Convenience and Traffic Control
	302-4.1.1	Sanitary Convenience
	302-4.1.2	Cleanup
	302-4.5	Measurement and Payment
<u>310</u>		<u>Painting</u>
	310-1	General
	310-2.5.2	Methods

CITY OF MANHATTAN BEACH
PROJECT SPECIFICATIONS

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CITY OF MANHATTAN BEACH
STATE OF CALIFORNIA

NOTICE TO CONTRACTORS

* * * *

SEALED PROPOSALS will be received at the office of the City Clerk, City Hall, City of Manhattan Beach, California, until 11:00 a.m. on Wednesday, January 14, 2015, at which time they will be publicly opened and read, for performing work as follows:

Downtown Crosswalk Replacement and Slurry Seal Project, per Plan No. SM-639, Sheets 1 through 24, and the Specifications prepared thereof, which are on file with the Public Works Department.

No bid will be received unless it is made on a proposal form furnished by the Engineer. Each bid must be accompanied by (cash, certified or cashier's check, or bidder's bond) made payable to the City of Manhattan Beach for an amount equal to at least ten percent (10%) of the amount bid, such guaranty to be forfeited should the bidder to whom the contract is awarded fail to enter into the contract.

Notice is hereby given that the Director of the Department of Industrial Relations, State of California, has ascertained the prevailing rates of per diem wages as evidenced in most recent edition of State of California, Department of Transportation, Business, Transportation and Housing Agency, General Prevailing Wage Rates Schedule, in the locality in which the work is to be done, for each craft or type of workman or mechanic needed to execute the contract in accordance with the provisions of Section 1770 to 1781 of the Labor Code; said prevailing rates are on file in the Office of the City Clerk and are incorporated herein by reference.

In accordance with Section 1776 of the Labor Code as amended, the Contractor shall submit a certified copy of the complete project payroll record to the Engineer, prior to final acceptance of the contract work.

The Contractor shall, in the performance of the work and improvements, conform to the Labor Code and other laws of the State of California and the laws of the Federal Government of the United States applicable thereto.

The Contractor's attention is directed to Section 14311.5 of the Government Code concerning projects involving federal funds and failure of bidder or Contractor to be properly licensed.

All bids are to be compared on the basis of the Engineer's Estimate of the quantities of work to be done. The City reserves the right to delete any bid item(s) prior to award if it is in the City's best interests to do so.

No contract will be awarded to a Contractor who has not been licensed in accordance with the provisions of Chapter 9, Division III, of the Business and Professions Code.

Each bidder shall also submit with his proposal a List of Subcontractors and Contractor's Questionnaire as required in the contract documents.

Plans may be seen and forms of proposal, bonds, contract, and specifications may be obtained at the City of Manhattan Beach City Hall, 1400 Highland Avenue, Manhattan Beach, California. A non-refundable deposit for the plans and specifications may be charged as determined by the Engineer.

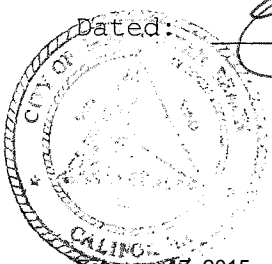
The special attention of prospective bidders is called to Section I, PROPOSAL REQUIREMENTS, for full direction as to bidding, etc.

The City of Manhattan Beach reserves the right to reject any or all bids.

Dated: _____

12-15-14

LIZA TAMURA, City Clerk
City of Manhattan Beach



PART 1

PROPOSAL REQUIREMENTS

Proposal Requirements

(a) General Information

The City Clerk of the City of Manhattan Beach, California, will receive at its office at the City Hall, 1400 Highland Avenue, Manhattan Beach, California, until 11:00 a.m. on Wednesday, January 14, 2015, sealed proposals for:

Downtown Crosswalk Replacement and Slurry Seal Project, per Plan No. SM-639, Sheets 1 through 24, and the Specifications prepared thereof, which are on file with the Public Works Department.

(b) Examination of Plans, Specifications, Special Provisions, and Site of Work

The Bidder is required to examine carefully the site of work and the proposal plans, specifications, and contract forms for the work contemplated, and it will be assumed that the bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and quantities of work to be performed and materials to be furnished, and as to the requirements agreed that submission of a proposal shall be considered prima facie evidence that the bidder has made such examination.

(c) Proposal Form

All proposals must be made upon blank forms to be obtained from the Public Works Department in the City Hall. All proposals must give the prices proposed, both in writing and figures, and must be signed by the bidder, with his address. If the proposal is made by an individual, his name and post office address must be shown. If made by firm or partnership, the name and post office address of each member of the firm or partnership must be shown. If made by corporation, the proposal must show the name of the state under the laws of which the corporation was chartered and the names, titles, and business addresses of the president, secretary, and treasurer. Each bidder shall also submit with his proposal a List of Subcontractors and Contractor's Questionnaire as required and referred to in the contract documents.

(d) Rejection of Proposals Containing Alterations, Erasures or Irregularities

Proposals may be rejected if they show any alterations of form, additions not called for, conditional or alternative bids, incomplete bids, erasures, or irregularities of any kind.

Each Contractor shall base his bid on furnishing and installing all items exactly as shown on the contract drawings and as described in the contract specifications. The successful Contractor will not be authorized to make any materials substitutions or changes in plans and/or specifications on his own initiative, but in each and every instance must procure written authorization from the Engineer before installing any work in variance with the contract requirements.

(e) Interpretation of Contract Documents

If any person contemplating submitting a bid on this project is in doubt as to the true meaning of any part of the plans, specifications, or other sections of the contract documents, he may submit to the Engineer a written request for interpretation thereof. The person submitting the request will be responsible for its prompt delivery. Any interpretation of the contract documents including the plans and specifications will be made by addendum duly issued or delivered by the Engineer to each person receiving a set of said documents. The Engineer will not be responsible for any other explanations or interpretations of the contract documents.

(f) Bidder's Guaranty

All bids shall be presented under sealed cover and shall be accompanied by cash, cashier's check, certified check, or bidder's bond, made payable to the City of Manhattan Beach, for an amount equal to at least ten percent (10%) of the amount of said bid, and no bid shall be considered unless such cash, cashier's check, certified check, or bidder's bond is enclosed therewith.

(g) Award of Contract

The award of the contract, if it be awarded*, will be to the lowest responsible bidder whose proposal complied with all the requirements described. The award, if made, will be made within thirty (30) days after the opening of the bids. All bids will be compared on the basis of the Engineer's estimate of quantities of work to be done. *See Paragraph (k) below.

(h) Execution of Contract

Upon notification that the successful bidder is the apparent low bidder, the contractor shall copy two sets of the contract agreements from the project specifications and submit the fully executed contract for the work for the City Council to process the award of contract. This contract shall not be considered complete or binding on the contractor or the City until the City Council has taken action to award the project to the successful bidder. Upon notification of the City Council action to award the contract to the successful bidder the Contractor shall obtain the needed contract bonds and insurance riders as required by these specifications. No contract shall be considered binding upon the City until the full execution of the contract.

Failure to file acceptable bonds as provided herein, within ten (10) days, not including Sundays, after the bidder has received notice that the contract has been awarded, shall be just cause for the annulment of the award and the forfeiture of the proposal guaranty.

(i) Return of Bidder's Guaranties

Within ten (10) days after the award of the contract, the City Clerk will return the proposal guaranties accompanying such proposals which are not to be considered in making the award. All other proposal guaranties will be held until the contract has been finally executed, after which they will be returned to the respective bidders whose proposals they accompany.

(j) Contractor's Questionnaire

The Contractor shall complete the questionnaire form that accompanies the proposal and submit the information with his proposal.

(k) Owner's Right to Award Contract

The Owner reserves the right to reject any or all bids, to waive any irregularities or informalities and to award contract as may best serve the interests of the City of Manhattan Beach.

CONTRACTOR'S PROPOSAL

To the City Council of the City of Manhattan Beach:

The undersigned declares that he has carefully examined the location of the proposed work, that he has examined the plans and specifications and read the accompanying proposal requirements, and hereby proposes to furnish all materials and do all the work required to complete said work prior to or upon the expiration of 45 working days in accordance with Drawing No. SM-639, Sheets 1 to 24, Specifications and Special Provisions, for the unit price or lump sum as set forth in the following schedule:

ITEM	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL COST
Downtown Crosswalk Replacement and Slurry Seal Project				
A. Crosswalk Replacement				
1.	Saw cut concrete to 4" depth at various locations	3,000 L.F.	3.50	10500.00
2.	Remove existing granite tile and concrete 4" minimum depth at all crosswalks as shown on plans	10,500 S.F.	12.00	126000.00
3.	"Shot Blast" concrete ribbons	7,500 S.F.	2.50	18750.00
4.	Install new asphalt concrete in crosswalk 4" depth 3/8" maximum aggregate (see specifications for mix design)	10,500 S.F.	7.00	73500.00
5.	Install new "Traffic Patterns XD" Impressed Preformed Thermoplastic at various locations	10,500 S.F.	20.00	210000.00
6.	Traffic Control	Lump Sum	100000.00	100000.00
B. Full Depth Street Reconstruction				
7.	Reconstruct street at various locations 4" A.C. over 6" base	500 S.F.	30.00	15000.00
8.	Remove and replace traffic loops at 3 locations	Lump Sum	4000.00	4000.00
9.	Slurry Seal PMCQ-IH 2.5% (240,000 square feet)	185 ELT	606.00	112110.00
10.	Pavement traffic control markings (Greenbook, Thermoplastic, Section 210-1.6.2 to 210-1.7)	Lump Sum	45000.00	45000.00
11.	Remove existing "Bots Dots" and replace with new within new slurry seal area only	Lump Sum	24000.00	24000.00
12.	Paint "crosswalk bars" with white paint on existing concrete ribbons	3,000 L.F.	2.00	6000.00
CONTINUED ON NEXT PAGE				

ITEM	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL COST
C. Concrete Work				
13.	6" Driveway	779 S.F.	17.1	13243.1
14.	4" Sidewalk	4430.5 S.F.	11.1	48735.1
15.	6" Curb and Gutter	345 L.F.	121.1	41745.1
16.	8" Cross Gutter	424.5 S.F.	40.1	17020.1
17.	Spandrel	80 S.F.	50.1	4000.1
18.	Special project site maintenance and public convenience and safety (not to exceed price if for comparison of bids only and may not be the final payment, complete). See Section 10 of Specifications.	Lump Sum	Not-to-exceed	\$7,000.00
TOTAL BASE BID (SECTIONS A,B,C: ITEMS 1 TO 18)				876603.50
D. Additive Alternate - see page 57 - PCC Joint Sealing				
19.	Joint Seal	5,000 L.F.	12.75	63750.1
TOTAL BASE BID + ADDITIVE ALTERNATE (SECTIONS A,B,C,D: ITEMS 1 TO 19)				940353.50

Total Base Bid Cost: \$ 876 603.50

Total Base Bid Cost in Writing: \$ eight hundred seventy six thousand

six hundred three & 50/100

Total Base Bid Plus Additive Alternate Cost: \$ 940 353.50

Total Base Bid Plus Additive Alternate Cost in Writing:

\$ nine hundred forty thousand three hundred fifty three - 50/100

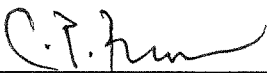
The undersigned represents that this is a balanced bid and that the overhead and profit have been evenly distributed.

C.P. Brown

Signed C.P. BROWN, PRESIDENT

The undersigned further agrees that in case of default in executing the required contract, with necessary bonds, within ten (10) days, not including Sunday, after having received notice that the contract is ready for signature, the proceeds of the check or bond accompanying his bid shall become the property of the City of Manhattan Beach.

Licensed in accordance with an act providing for the registration of Contractors, License No. STATE LIC. 688059 "A".



Signature of Bidder

C.P. BROWN, PRESIDENT

Title

(If an individual, so state. If a firm or co-partnership, state the firm name and give the names of all individuals copartners composing the firm. If a corporation, state legal name of corporation, also names of president, secretary, treasurer, and manager thereof.)

**PALE INC.DBA
EXCEL PAVING COMPANY**

(Name of Company or Corporation)

**2230 LEMON AVENUE
LONG BEACH, CA 90806**

(Address)

(City)

(State) (Zip)

Dated: JAN 14 2015, 20 .

STATISTICAL INFORMATION ON CONTRACTOR

Downtown Crosswalk Replacement and Slurry Seal Project

Firm/Organization Information Form

INSTRUCTIONS: All proposers or bidders responding to this solicitation must return this form for proper consideration of their proposal or bid. **The information requested below is for statistical purposes only.** On final analysis and consideration of award, a proposer/bidder will be selected without regard to gender, race, creed, or color. Categories listed below are based upon those described in 49 CFR §23.5.

TYPE OF BUSINESS ENTITY: CORPORATION
(Corporation, Partnership, Joint Venture, Sole Proprietorship, etc.)

TOTAL NUMBER OF EMPLOYEES IN FIRM (including owners): 165

CULTURAL/ETHNIC COMPOSITION OF FIRM: (Owners, Partners, Associate Partners, Managers, Staff, etc.).
Please break down the total number of employees in your firm into the following categories:

	OWNERS/PARTNERS/ ASSOCIATE PARTNERS	MANAGERS	STAFF
Black/African American		1	3
Hispanic/Latin American		10	483 79
Asian American			2
American Indian/Alaskan Native			1
All Others	1	7	61

Based upon the categories above, please indicate the total number of men and women in your firm:

Men	1	16	130
Women		2	16

PERCENTAGE OF OWNERSHIP IN FIRM Please indicate by percentage (%) how the ownership of the firm is distributed:

	Black/African American	Hispanic/Latin American	Asian American	American Indian/Alaskan Native	All Others
Men	%	%	%	%	White 100 %
Women	%	%	%	%	%

CERTIFICATION AS MINORITY, WOMEN, DISADVANTAGED, AND DISABLED VETERANS BUSINESS ENTERPRISE Is your firm currently certified as a minority, women-owned, disadvantaged or disabled veterans business enterprise by a public agency? (If yes, complete the following and attach a copy of your notice of certification.) YES _____ NO ✓

Agency _____ Expiration Date _____

Agency _____ Expiration Date _____

Agency _____ Expiration Date _____

Agency PALP INC. DBA Expiration Date _____

FIRM NAME: EXCEL PAVING COMPANY

SIGNED: C.P. Brown **TITLE:** C.P. BROWN, PRESIDENT

DATE: JAN 14 2015

NONCOLLUSION DECLARATION
TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID
[Public Contract Code Section 7106]
Downtown Crosswalk Replacement and Slurry Seal Project

The undersigned declares:

I am the PRESIDENT of FALP INC. DBA EXCEL PAVING COMPANY, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed Person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any Person or entity for such purpose. Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on JAN 14 2015 [date], at LONG BEACH [city], CALIFORNIA [state].

Signature: C.P. Brown

Signature: Michele E. Drakulich

Printed Name: C.P. BROWN, PRESIDENT

Printed Name: MICHELE E. DRAKULICH, ASST. SECRETARY

Date: JAN 14 2015

Date: JAN 14 2015

This form must be notarized.

ACKNOWLEDGMENT

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

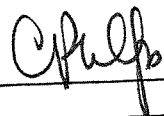
State of California
County of Los Angeles

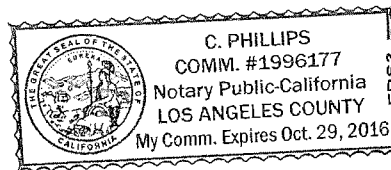
On JAN 14 2015 before me, C. Phillips, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature  (Seal)



CONTRACTOR'S QUESTIONNAIRE

TO THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA:

Re: Downtown Crosswalk Replacement and Slurry Seal Project

Submitted by PALP, INC. DBA EXCEL PAVING COMPANY
2220 LEMON AVENUE

Principal Office LUNG BEACH, CA 90806

Telephone (562) 599-5841

Type of Firm: Corporation Co-Partnership

Individual

Contractor's License No. STATE LIC. 688659 "A"

If a corporation, answer these questions:

Date of incorporation 4-7-81
State of incorporation CALIFORNIA
President's name Curtis P. Brown President and Chief Executive Officer
Vice President's name Curtis P. Brown III Vice President and Chief Operating Officer
Secretary or Clerk's name Bruce E. Flatt Vice President and Chief Financial Officer
Treasurer's name Marcia S. Miller Secretary
Michele E. Drakulich Assistant Secretary

If a co-partnership, answer these questions:

Date of organization N/A
Name and Address of all partners

Number of years experience as a Contractor in construction work 36+

List the major construction projects your organization has underway as of this date:

clo Los Angeles Soto Sr Peter Blikan Phone: (213) 485 4503
clo Santa Ana Grand Ave Kurt Werman Phone: (714) 647 5639
clo South Pasadena Foothill Mark Peterson Phone: (909) 595 1940
clo El Monte Rosemead TIM POPPE Phone: 619 655 2831

List the major projects your organization has completed in the past five years:

clo Chino Walnut Ave Nasmeh Imani Phone: (909) 334 3409
clo Simi Valley Annual St Rehab Mansour Maravi Phone: (805) 583 6786
clo San Gabriel Grand Ave Patty Pena Phone: (626) 308 2825
clo Montebello Beverly Blvd Sam Kouri Phone: (323) 887 1460

Have you or your firm or any principal in your firm ever been adjudged bankrupt in any voluntary or involuntary bankruptcy proceeding? NO

If so, when?

NOTE: If requested by the City, the bidder shall furnish a notarized financial statement, financial data, or other information and references sufficiently comprehensive to permit an appraisal of his current financial condition.

LIST OF SUBCONTRACTORS

Downtown Crosswalk Replacement and Slurry Seal Project

The Bidder is required to fill in the following blanks in accordance with the provisions of the Subletting and Subcontracting Fair Practices Act (Chapter 2 of Division 5, Title 1 of the Government Code of the State of California) and should familiarize himself with Section 2-3 of the Standard Specifications.

Name Under which Subcontractor is Licensed	License Number	Address of Office, Mill or Shop	Specific Description of Subcontract
<u>Goss Const. Co.</u>	<u>378377</u>	<u>Rancho Cucamonga, Ca.</u>	<u>joint seal</u>
<u>A.M. Concrete</u>	<u>446850 C8</u>	<u>Sylmar, Ca.</u>	<u>PCC</u>
<u>Pavement Coatings</u>	<u>303609</u>	<u>Mira Loma, Ca.</u>	<u>Slurry S</u>
<u>Sheridan Design</u>	<u>760168</u>	<u>Alpine, Ca.</u>	<u>Stamped AC</u>
<u>Chrispo Co.</u>	<u>374600</u>	<u>Bloomington, Ca.</u>	<u>striping</u>

Subcontractors listed in accordance with the provisions of Section 2-3 must be properly licensed under the laws of the State of California for the type of work which they are to perform. Do not list alternate subcontractors for the same work.

BIDDER'S BOND TO ACCOMPANY PROPOSAL

KNOW ALL MEN BY THESE PRESENTS,

That we, PALP Inc. dba Excel Paving Company, as principal, and
Federal Insurance Company, as surety are held
and firmly bound unto the City of Manhattan Beach in the sum of

Ten percent of the total amount of the bid Dollars, (\$ 10%),
to be paid to the said City or its certain attorney, its successors and
assigns; for which payment, well and truly to be made, we bind ourselves, our
heirs, executors and administrators, successors or assigns, jointly and
severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH,

That if the certain proposal of the above bounden Principal

to construct Downtown Crosswalk Replacement and Slurry Seal Project per
Plan No. SM-639, sheets 1 to 24

dated January 14, 2015 is accepted by the City of Manhattan

Beach, and if the above bounden Principal,
his heirs, executors, administrators, successors and assigns, shall duly enter
into and execute a contract for such construction, and shall execute and
deliver the two bonds described within ten days (not including Sunday) from
the date of the mailing of a notice to the above bounden Principal by
and from the said City of Manhattan Beach that said contract is ready for
execution, then this obligation shall become null and void; otherwise it shall
be and remain in full force and virtue; provided, however, that if Principal
shall, prior to the mailing of a notice of being awarded the contract notify
City of its unwillingness to perform under its bid submittal or request relief
from its bid without legal justification, City shall be relieved of any
obligation to formally award the contract to Principal and City's rights
hereunder shall not be affected by its failure to formally award the contract.

IN WITNESS WHEREOF, we hereunto set our hands and seals this
day of

January 7, 20 15.

PALP Inc. dba Excel Paving Company

C.P. Brown

Federal Insurance Company

C.P. BROWN, PRESIDENT

Douglas A. Rapp
Douglas A. Rapp, Attorney in Fact

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

ACKNOWLEDGMENT

State of California
County of Orange

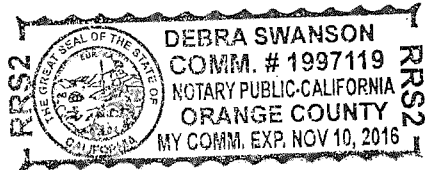
On 01/07/2015 before me, Debra Swanson, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature Debra Swanson (Seal)





**Chubb
Surety**

**POWER
OF
ATTORNEY**

**Federal Insurance Company
Vigilant Insurance Company
Pacific Indemnity Company**

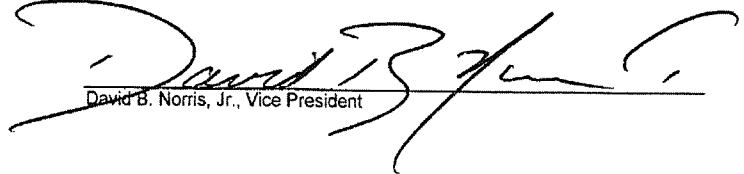
**Attn: Surety Department
15 Mountain View Road
Warren, NJ 07059**

Know All by These Presents, That **FEDERAL INSURANCE COMPANY**, an Indiana corporation, **VIGILANT INSURANCE COMPANY**, a New York corporation, and **PACIFIC INDEMNITY COMPANY**, a Wisconsin corporation, do each hereby constitute and appoint **Douglas A. Rapp and Timothy D. Rapp of Aliso Viejo, California**-----

each as their true and lawful Attorney- in- Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said **FEDERAL INSURANCE COMPANY**, **VIGILANT INSURANCE COMPANY**, and **PACIFIC INDEMNITY COMPANY** have each executed and attested these presents and affixed their corporate seals on this **16th** day of **December, 2011**.


Kenneth C. Wendel, Assistant Secretary


David B. Norris, Jr., Vice President

STATE OF NEW JERSEY

ss.

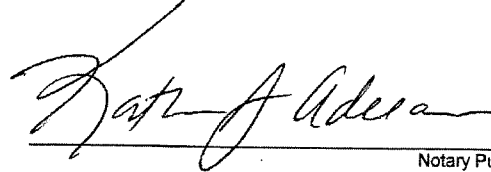
County of Somerset

On this **16th** day of **December, 2011** before me, a Notary Public of New Jersey, personally came Kenneth C. Wendel, to me known to be Assistant Secretary of **FEDERAL INSURANCE COMPANY**, **VIGILANT INSURANCE COMPANY**, and **PACIFIC INDEMNITY COMPANY**, the companies which executed the foregoing Power of Attorney, and the said Kenneth C. Wendel, being by me duly sworn, did depose and say that he is Assistant Secretary of **FEDERAL INSURANCE COMPANY**, **VIGILANT INSURANCE COMPANY**, and **PACIFIC INDEMNITY COMPANY** and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By- Laws of said Companies; and that he signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that he is acquainted with David B. Norris, Jr., and knows him to be Vice President of said Companies; and that the signature of David B. Norris, Jr., subscribed to said Power of Attorney is in the genuine handwriting of David B. Norris, Jr., and was thereto subscribed by authority of said By- Laws and in deponent's presence.

Notarial Seal



**KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2316685
Commission Expires July 14, 2014**


Notary Public

CERTIFICATION

Extract from the By- Laws of **FEDERAL INSURANCE COMPANY**, **VIGILANT INSURANCE COMPANY**, and **PACIFIC INDEMNITY COMPANY**:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys- in- Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Kenneth C. Wendel, Assistant Secretary of **FEDERAL INSURANCE COMPANY**, **VIGILANT INSURANCE COMPANY**, and **PACIFIC INDEMNITY COMPANY** (the "Companies") do hereby certify that

- (i) the foregoing extract of the By- Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in Puerto Rico and the U.S. Virgin Islands, and Federal is licensed in American Samoa, Guam, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this 7th day of January, 2015.




Kenneth C. Wendel, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903- 3493 Fax (908) 903- 3656

e-mail: surety@chubb.com

ACKNOWLEDGMENT

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

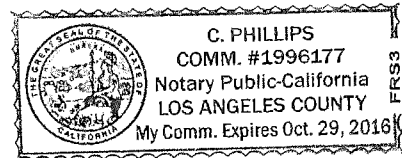
State of California
County of Los Angeles)

On JAN 14 2014 before me, C. Phillips, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.



Signature *C.P. Brown* (Seal)

CITY OF MANHATTAN BEACH
A G R E E M E N T

THIS AGREEMENT, made and entered into this _____ day of _____, by and between the CITY OF MANHATTAN BEACH, a municipal corporation, hereinafter referred to as "CITY" and _____, hereinafter referred to as "CONTRACTOR". City and Contractor hereby agree as follows:

1. That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the City, and under the conditions expressed in the three bonds, bearing even date with these presents, and hereunto annexed, the Contractor agrees with the City, at his own proper cost and expense, to do all the work and furnish all the materials, except such as are mentioned in the Specifications to be furnished by said City, necessary to complete in a good, workmanlike and substantial manner the improvements for the:

Downtown Crosswalk Replacement and Slurry Seal Project per

Plan No. SM-639, sheets 1 to 24

in accordance with the specifications and Special Provisions therefor, and also in accordance with the Specifications entitled "Standard Specifications for Public Works Construction", (Latest Edition) and all supplements thereto, which said Special Provisions and Standard Specifications are hereby specially referred to and by such reference made a part hereof.

Said work to be done as shown upon the following plans:

Plan No. SM-639, Sheets 1 to 24

2. Said Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and doing all the work contemplated and embraced in this Agreement; also for all loss or damage arising out of the nature of the work aforesaid, or from the acts of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the City of Manhattan Beach and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work, and for well and faithfully completing the work, and the whole thereof, in the manner and according to the Plans and Specifications, and requirements of the Engineer under them, to wit:

Total Cost: \$ 876,563⁵⁰

Total Cost In Writing: Eight hundred seventy six thousand five hundred sixty three and fifty cents

3. The complete contract consists of the following documents: This Agreement, Notice to Contractors, the accepted bid, the completed Plans, Specifications and detailed drawings, Performance Bond, Labor and Materials Bond, and Defective Materials, Workmanship and Equipment Bond.

All rights and obligations of City and Contractor are fully set forth and described in the contract documents.

All of the above named documents are intended to cooperate so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents.

A G R E E M E N T
(Continued)

4. The said City hereby promises and agrees with the said Contractor to employ, and does hereby employ the said Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, in the manner, and upon the conditions above set forth; and the said parties for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to the full performance of the covenants herein contained.

5. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

IN WITNESS WHEREOF, the City has by action of its City Council authorized this Agreement to be executed for and on behalf of the City by its Mayor and attested by its City Clerk, and the Contractor has caused the same to be executed by his duly authorized officer.

Contractor

By C.P. Brown
Its **PRESIDENT C.P. BROWN**

and

By Michele E. Drakulich
Its **ASST. SECRETARY MICHELE E. DRAKULICH**
2230 Lemon Avenue

Address
Long Beach, CA 90806

ATTEST:

CITY OF MANHATTAN BEACH

City Clerk

Mark Danaj, City Manager

The foregoing agreement is hereby approved by me as to form

Public Works Approval

City Attorney

CITY OF MANHATTAN BEACH
PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____
as principal, and _____,
a corporation, incorporated, organized, and existing under the laws of the State of _____ and authorized to execute bonds and undertakings and to do a general surety business in the State of California, as Surety, are jointly and severally held and firmly bound unto the City of Manhattan Beach, a municipal corporation, located in the County of Los Angeles, State of California, in the full and just sum of _____ Dollars (\$ _____), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves and our respective heirs, executors, administrators, representatives, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that:

WHEREAS, said principal has entered into, or is about to enter into, a certain written contract or agreement, dated as of the _____ day of _____, 20____, with the said City of Manhattan Beach for

Downtown Crosswalk Replacement and Slurry Seal Project per

Plan No. SM-639, sheets 1 to 24

all as is more specifically set forth in said contract or agreement, a full, true, and correct copy of which is hereunto attached, and hereby referred to and by this reference incorporated herein and made a part hereof.

NOW, THEREFORE, if the said Principal _____ shall faithfully and well and truly do, perform and complete, or cause to be done, performed and completed, each and all of the covenants, terms, conditions, requirements, obligations, acts and things, to be met, done or performed by said Principal _____, as set forth in, or required by, said contract or agreement, all at and within the time or times, and in the manner as therein specified and contemplated, then this bond and obligation shall be null and void; otherwise it shall be and remain in full force, virtue and effect.

The said Surety, for value received, hereby stipulates and agrees that no amendment, change, extension of time, alteration or addition to said contract or agreement, or of any feature or item or items of performance required therein or thereunder, shall in any manner affect its obligations on or under this bond; and said Surety does hereby waive notice of any such amendment, change, extension of time, alteration, or addition to said contract or agreement, and of any feature or item or items of performance required therein or thereunder.

PERFORMANCE BOND
(Continued)

In the event any suit, action, or proceeding is instituted to recover on this bond or obligation, said Surety will pay, and does hereby agree to pay, as attorney's fees for said City, such sum as the Court in any such suit, action or proceeding may adjudge reasonable.

EXECUTED, SEALED, and DATED this _____ day of _____, 20__.

(CORPORATE SEAL)

Principal

(CORPORATE SEAL)

Surety

The foregoing bond is hereby approved
by me as to form

City Attorney

LABOR AND MATERIALS BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____

_____ as principal, and _____

_____ as surety, are held and firmly bound unto the CITY OF MANHATTAN BEACH, State of California, in the sum of

_____ (\$ _____) lawful money of the

United States, for the payment of which sum, well and truly to be made, we bind ourselves, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH, that:

WHEREAS, said principal has been awarded and is about to enter into a written contract or agreement with the City of Manhattan Beach for

Downtown Crosswalk Replacement and Slurry Seal Project per

Plan No. SM-639, sheets 1 to 24

all as is more specifically set forth in said contract or agreement, a full, true, and correct copy of which is hereunto attached, and hereby referred to and by this reference incorporated herein and made a part hereof.

NOW, THEREFORE, if the said principal as Contractor in said contract or agreement, or principal's subcontractor, fails to pay for any materials, provisions, provided or other supplies or teams, equipment, implements, trucks, machinery or power used in, upon or for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Act of the State of California or for any amounts required to be deducted, withheld and paid over to the Franchise Tax Board from the wages of employees of the Contractor and his subcontractors pursuant to Section 18806 of the Revenue and Taxation Code with respect to such work or labor, the surety on this bond will pay the same in an amount not exceeding the sum hereinabove specified in this bond.

This bond is executed pursuant to the provisions of Chapter 5 of Division 4, Part 6, Title 3, of the Civil Code of the State of California, and shall inure to the benefit of any and all persons entitled to file claims under Chapter 5 of Division 4, Part 6, Title 3 of the Civil Code of California as now or hereafter amended. No premature payment by said City to said principal shall exonerate any surety unless the City Council of said City shall have actual notice that such payment is premature at the time and it is ordered by said Council, and then only to the extent that such payment shall result in loss to such surety, but in no event more than the amount of such premature payment.

LABOR AND MATERIALS BOND
(Continued)

This bond is executed and filed in connection with said contract or agreement hereunto attached to comply with each and all of the provisions of the laws of the State of California above mentioned or referred to, and to all amendments thereto, and the obligors so intend and do hereby bind themselves accordingly.

The said surety, for value received, hereby stipulates and agrees that no amendment, change, extension of time, alteration, or addition to said contract or agreement, or of any feature or item or items of performance required therein or thereunder, shall in any manner affect its obligation on or under this bond; and said surety does hereby waive notice of any such amendment, change, extension of time, alteration, or addition to said contract or agreement, and of any feature or item or items of performance required therein or thereunder.

WITNESS our hands this _____ day of _____, 20____.

Principal

Surety

The foregoing bond is hereby approved by me as to form.

City Attorney

The foregoing bond is hereby approved by me as to surety.

ATTEST:

Mark Danaj, City Manager

City Clerk

CITY OF MANHATTAN BEACH
DEFECTIVE MATERIALS, WORKMANSHIP, AND EQUIPMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____
as principal, and _____,
a corporation organized and existing under the laws of the State of _____,
and authorized to do a general surety business in the State of California, as
Surety, are held and firmly bound unto the City of Manhattan Beach
(hereinafter called Owner), a municipal corporation of the State of
California, in the full and just sum of _____
_____ Dollars (\$ _____), lawful money of the United
States of America, for which sum, well and truly to be paid, we bind
ourselves, our heirs, executors, administrators, successors and assigns,
jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that:

WHEREAS, the said Principal entered into a certain contract with the obligee,
dated on or about _____ for the
construction of

Downtown Crosswalk Replacement and Slurry Seal Project per

Plan No. SM-639, sheets 1 to 24

WHEREAS, the Principal contracted to give the obligee a surety bond in the sum
of _____

Dollars (\$ _____), conditioned that the Principal would make good
and protect the said obligee against the results of materials, equipment, or
workmanship which are inferior, defective, or not in accordance with the terms
of said contract having been used or incorporated in any part of the work so
contracted for, which shall have appeared or been discovered, within the
period of one (1) year from and after the completion and final acceptance of
the work done under said contract.

NOW, THEREFORE, if the Principal shall well and truly make good and
protect the said obligee against the results of materials, equipment, or
workmanship which are inferior, defective, or not in accordance with the terms
of said contract having been used or incorporated in any part of the work
performed under said contract, which shall have appeared or been discovered
within said one (1) year period from and after completion and final acceptance
of said work, then this obligation shall be null and void; otherwise to remain
in full force and effect.

DEFECTIVE MATERIALS, WORKMANSHIP, AND EQUIPMENT BOND
(Continued)

SIGNED, SEALED, and DATED this _____ day of _____,
20____.

Principal

Surety

The foregoing bond is hereby approved
by me as to form

City Attorney

CITY OF MANHATTAN BEACH
1400 HIGHLAND AVENUE
MANHATTAN BEACH, CALIFORNIA 90266

INSURANCE ENDORSEMENT FORM #1 (GENERAL)

This endorsement is issued in consideration of the policy premium. Notwithstanding any inconsistent expression in the policy to which this endorsement is attached, or in any other endorsement now or hereafter attached thereto, or made a part thereof, the protection afforded by said policy shall include the following:

1. Additional Insured. With respect to such insurance as is afforded by this policy, the City of Manhattan Beach and its officers, employees, elected officials, volunteers, and members of boards and commissions shall be named as additional insured. This additional insured coverage only applies with respect to liability of the named insured or other parties acting on their behalf arising out of the activities of the undertaking specified in paragraph No. 5 below (Indemnification Clause).
2. Cross Liability Clause. The insurance afforded applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's liability.
3. Occurrence Based Policy. This policy shall be an "occurrence based policy."
4. Primary Insurance. For the risks covered by this endorsement this insurance shall provide primary insurance to the City to the exclusion of any other insurance or self-insurance program the City may carry with respect to claims and injuries arising out of activities of the Contractor or otherwise insured hereunder.
5. Indemnification Clause. The underwriters acknowledge that the named insured shall indemnify and save harmless the City of Manhattan Beach against any and all claims resulting from the wrongful or negligent acts or omissions of the named insured or other parties acting on their behalf in the undertaking specified as (list activity location and date(s) of event to include set-up and cleanup dates):

Downtown Crosswalk Replacement and Slurry Seal Project per

Plan No. SM-639, sheets 1 to 24

6. Investigation and Defense Costs. Said hold harmless assumption on the part of the named insured shall include all reasonable costs necessary to defend a lawsuit including attorney fees, investigators, filing fees, transcripts, court reporters, and other reasonable costs of investigation and defense.
7. Reporting Provisions. Any failure to comply with the reporting provisions of the policy shall not affect coverage provided to the City.
8. Cancellation. This policy shall not be cancelled except by written notice to the Risk Manager at: City of Manhattan Beach, 1400 Highland Avenue, Manhattan Beach, CA, 90266, at least thirty (30) days prior to the date of such cancellation.
9. Limits of Liability. This policy shall provide minimum limits of liability of \$ 2,000,000.00, combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the named insured.

CITY OF MANHATTAN BEACH
1400 HIGHLAND AVENUE
MANHATTAN BEACH, CALIFORNIA 90266

INSURANCE ENDORSEMENT FORM #2 (AUTO)

This endorsement is issued in consideration of the policy premium. Notwithstanding any inconsistent expression in the policy to which this endorsement is attached, or in any other endorsement now or hereafter attached thereto, or made a part thereof, the protection afforded by said policy shall include the following:

1. Additional Insured. With respect to such insurance as is afforded by this policy, the City of Manhattan Beach and its officers, employees, elected officials, volunteers, and members of boards and commissions shall be named as additional insured. This additional insured coverage only applies with respect to liability of the named insured or other parties acting on their behalf arising out of the activities of the undertaking specified in paragraph No. 5 below (Indemnification Clause).
2. Cross Liability Clause. The insurance afforded applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's liability.
3. Occurrence Based Policy. This policy shall be an "occurrence based policy."
4. Primary Insurance. For the risks covered by this endorsement this insurance shall provide primary insurance to the City to the exclusion of any other insurance or self-insurance program the City may carry with respect to claims and injuries arising out of activities of the Contractor or otherwise insured hereunder.
5. Indemnification Clause. The underwriters acknowledge that the named insured shall indemnify and save harmless the City of Manhattan Beach against any and all claims resulting from the wrongful or negligent acts or omissions of the named insured or other parties acting on their behalf in the undertaking specified as (list activity location and date(s) of event to include set-up and cleanup dates):

Downtown Crosswalk Replacement and Slurry Seal Project per

Plan No. SM-639, sheets 1 to 24

6. Investigation and Defense Costs. Said hold harmless assumption on the part of the named insured shall include all reasonable costs necessary to defend a lawsuit including attorney fees, investigators, filing fees, transcripts, court reporters, and other reasonable costs of investigation and defense.
7. Reporting Provisions. Any failure to comply with the reporting provisions of the policy shall not affect coverage provided to the City.
8. Cancellation. This policy shall not be cancelled except by written notice to the Risk Manager at: City of Manhattan Beach, 1400 Highland Avenue, Manhattan Beach, CA, 90266, at least thirty (30) days prior to the date of such cancellation.
9. Limits of Liability. This policy shall provide minimum limits of liability of \$1,000,000.00, combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the named insured.

INSURANCE ENDORSEMENT FORM #2
(AUTO)
(CONTINUED)

10. Scope of Coverage. This policy shall afford coverage at least as broad as Insurance Services Office Form No. CA0001 (Ed 1/78), Code 1 ("any auto") and shall include the following:

A. Auto Liability

- (1) Any auto
- (2) All owned autos (Private Passengers)
- (3) All owned autos (other than Private Passengers)
- (4) Hired autos
- (5) Non-owned autos (for business purposes)
- (6) Other

The limits of liability as stated in this endorsement apply to the insurance afforded by this endorsement notwithstanding that the policy may have lower limits of liability elsewhere in the policy.

This endorsement is effective _____ at 12:01 a.m.
and forms a part of Policy No. _____.

Named Insured _____

Name of Insurance Company _____

I, _____ (print/type name),
warrant that I have authority to bind the above listed insurance company,
and by my signature hereon do so bind this company.

By _____
Signature of Authorized Representative

Approved _____
City Risk Manager Date

PLEASE ATTACH CERTIFICATE OF INSURANCE

CITY OF MANHATTAN BEACH

Downtown Crosswalk Replacement and Slurry Seal Project

PROPOSED SECURITY DEPOSITS IN LIEU OF RETENTION

Pursuant to Sections 10263 and 22300 of the Public Contract Code of the State of California, the Contractor shall list below his proposed securities in lieu of retention, or request that payment of retentions be made directly to an escrow agent. Only those securities listed in Section 16430 of the California Government Code are acceptable to the City.

	<u>Security</u>	<u>Expiration Date</u>	<u>Value in Dollars</u>
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

<u>Escrow Office</u>	<u>Escrow Agent</u>	<u>Address</u>	<u>Telephone</u>
----------------------	---------------------	----------------	------------------

The absence of any proposed security deposits (to be listed above), or information designating an escrow arrangement, and/or the Contractor's signature, shall constitute an acceptance by the Contractor that a ten percent (10%) deduction from any and all payments to him shall be withheld by the Agency until the expiration of 35 calendar days from the date of acceptance by the Agency, of the work as complete. Monies withheld by the Agency shall bear no interest payable to the Contractor upon their release.

Contractor:

Title

Name

Signature

PROGRESS PAYMENT REQUEST FORM

CITY OF MANHATTAN BEACH

Engineering Division, 1400 Highland Avenue, Manhattan Beach, CA 90266
 PROJECT TITLE Downtown Crosswalk Replacement and Slurry Seal Project
 PROJECT NO. SM-639, sheets 1 to 21

Contractor _____

Address _____

Telephone _____

Submitted by: _____

Date _____

Progress Estimate # _____

Contract Award Amount \$ _____

February 17, 2015
 City Council Meeting

No.	Description	Contract Quantity	Previous Quantity	Quantity This Estimate	Unit Price	Amount This Estimate	Total Quantity To Date	Total Amount To Date
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								
13.								
14.								
	Total							
	Less Retention							
	Less Previous Billing(s)							
	Total Amount Due							

City Approval: _____ Date: _____

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	Exemptions (see instructions): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number									

Employer identification number									

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. The IRS has created a page on IRS.gov for information about Form W-9, at www.irs.gov/w9. Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the

withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity,
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust, and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* on page 1.

What is FATCA reporting? The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Disregarded entity. For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulation section 301.7701-2(c)(2)(iii). Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Note. Check the appropriate box for the U.S. federal tax classification of the person whose name is entered on the "Name" line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the U.S. federal tax classification in the space provided. If you are an LLC that is treated as a partnership for U.S. federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation, as appropriate. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for U.S. federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

Other entities. Enter your business name as shown on required U.S. federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the *Exemptions* box, any code(s) that may apply to you. See *Exempt payee code* and *Exemption from FATCA reporting code* on page 3.

Exempt payee code. Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following codes identify payees that are exempt from backup withholding:

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Reg. section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Reg. section 1.1472-1(c)(1)(i)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

- G—A real estate investment trust
- H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
- I—A common trust fund as defined in section 584(a)
- J—A bank as defined in section 581
- K—A broker
- L—A trust exempt from tax under section 664 or described in section 4947(a)(1)
- M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt payee code* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor ⁴
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

Agenda Date: 2/17/2015

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Liza Tamura, City Clerk

SUBJECT:

Minutes:

This Item Contains Action Minutes of City Council Meetings which are Presented for Approval. Staff Recommends that the City Council, by Motion, Take Action to Approve the Action Minutes of the:

- a) City Council Adjourned Regular Meeting-Closed Session of February 3, 2015
- b) City Council Regular Meeting of February 3, 2015

(City Clerk Tamura).

APPROVE

RECOMMENDATION:

Staff recommends that the City Council, by motion, take action to approve the minutes of the City Council.

Attachments:

- 1. City Council Adjourned Regular Meeting-Closed Session Minutes of February 3, 2015
- 2. City Council Regular Meeting Minutes of February 3, 2015.

City of Manhattan Beach

1400 Highland Avenue
Manhattan Beach, CA 90266



Meeting Minutes - Draft

Tuesday, February 3, 2015

5:00 PM

Adjourned Regular Meeting - Closed Session

City Council Chambers

City Council Meeting

Mayor Wayne Powell
Mayor Pro Tem Mark Burton
Councilmember Tony D'Errico
Councilmember David J. Lesser
Councilmember Amy Howorth

A. CALL MEETING TO ORDER

The Closed Session Meeting of February 3, 2015, was called to order at 5:00 PM.

B. PLEDGE TO THE FLAG

Mayor Powell led the Pledge to the Flag.

C. ROLL CALL

Present 5 - Mayor Wayne Powell, Mayor Pro Tem Mark Burton, Councilmember Tony D'Errico, Councilmember David J. Lesser, and Councilmember Amy Howorth

D. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING

City Clerk Liza Tamura confirmed that the meeting was properly posted.

E. PUBLIC COMMENTS

None.

F. ANNOUNCEMENT IN OPEN SESSION OF ITEMS TO BE DISCUSSED IN CLOSED SESSION

At 5:00 PM, City Attorney Quinn Barrow read into the record the following Closed Session items:

**1. CONFERENCE WITH LEGAL COUNSEL (ANTICIPATED LITIGATION)
(Government Code Section 54956.9 (d) (2))**

A point has been reached where, in the opinion of the City Council on the legal advice of the City Attorney, based on existing facts and circumstances, there is a significant exposure to litigation in 1 case.

G. RECESS INTO CLOSED SESSION

The City Council recessed into Closed Session at 5:00 PM.

H. RECONVENE INTO OPEN SESSION

The City Council reconvened into Open Session at 6:02 PM.

I. CLOSED SESSION ANNOUNCEMENT IN OPEN SESSION

The City Attorney announced that the City Council provided direction to Special Counsel with no other reportable action taken.

J. ADJOURNMENT

At 6:02 PM. Mayor Powell adjourned the January 6, 2015, Adjourned Regular Meeting - Closed Session to the January 6, 2015, Regular City Council Meeting in City Council Chambers, in said city.

Quinn Barrow
Recording Secretary

Wayne Powell
Mayor

ATTEST:

Liza Tamura
City Clerk

City of Manhattan Beach

1400 Highland Avenue
Manhattan Beach, CA 90266



Meeting Minutes - Draft

Tuesday, February 3, 2015

6:00 PM

Regular Meeting

City Council Chambers

5:00 PM Adjourned Regular Meeting - Closed Session

City Council

Mayor Wayne Powell
Mayor Pro Tem Mark Burton
Councilmember Tony D'Errico
Councilmember David J. Lesser
Councilmember Amy Howorth

PLEASE NOTE THAT THE CITY ARCHIVES THE VIDEO RECORDINGS OF ALL REGULAR CITY COUNCIL MEETINGS AND THE VIDEO FOR THIS MEETING IS HEREBY INCORPORATED BY THIS REFERENCE. FOR A COMPLETE RECORD OF THIS CITY COUNCIL MEETING, GO TO www.citymb.info/city-officials/city-clerk/city-council-meetings-agendas-and-minutes

A. PLEDGE TO THE FLAG

Kelly Trinh, Manhattan Beach Middle School, led the Pledge of Allegiance.

B. NATIONAL ANTHEM

Patricia Linton and Chiara Cebello, from Manhattan Beach Middle School, played the National Anthem on the flute.

C. ROLL CALL

Present: 5 - Mayor Powell, Mayor Pro Tem Burton, Councilmember D'Errico, Councilmember Lesser and Councilmember Howorth

D. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING

City Clerk Liza Tamura confirmed that the meeting was properly posted.

E. APPROVAL OF AGENDA AND WAIVER OF FULL READING OF ORDINANCES

A motion was made by Councilmember Howorth, seconded by Councilmember Lesser, that the agenda be approved. The motion carried by the following vote:

Aye: 5 - Powell, Burton, D'Errico, Lesser and Howorth

F. CEREMONIAL CALENDAR

1. Presentation by Representatives of the Mayor's Youth Council [15-0068](#)
Summarizing the December 6, 2015 Event - "We're Better Together:
An Intergenerational Gathering in Manhattan Beach."
RECEIVE REPORT

Mayor Powell introduced Allison Gist and Armance Sherman students from the Mayor's Youth Council who presented a summary report on the December 6, 2014, event "We're Better Together: An Intergenerational Gathering in Manhattan Beach".

Mayor Powell, on behalf of the City Council presented certificates of Recognition to Allison Gist and Armance Sherman.

Mayor Powell also acknowledged Councilmember Lesser for starting the symposium during the Centennial Celebration.

2. Presentation of a Proclamation to the American Heart Association
Declaring the Month of February, 2015, as "American Heart Disease
Awareness Month".

[15-0066](#)

PRESENT

Mayor Powell, on behalf of the City Council, presented a proclamation to representatives of the American Heart Association, Charlotte Lesser and Marissa Fortuna proclaiming February as "Heart Disease Awareness Month".

G. CITY MANAGER REPORT

City Manager Mark Danaj announced the Interactive Community Budget Meeting on Thursday, March 5, 2015, at the Joslyn Community Center at 6:00 PM. This will be an opportunity for the community to provide input preparing for the next budget.

City Manager Danaj introduced Community Development Director Marisa Lundstedt who presented an overview of the Urban Land Institute (ULI) Visioning Week and Critical Next Steps.

City Manager Danaj introduced Police Chief Eve Irvine who gave a Public Safety Update. Police Chief Irvine announced a Town Hall Meeting on Wednesday, February 11, 2015, at 6:30 PM - 7:30 PM at the Joslyn Community Center. She further added that the Police Department will have a Facebook page and also stressed the need for the community to call and speak up on crime.

H. CITY ATTORNEY REPORT

None.

I. CITY COUNCIL ANNOUNCEMENTS AND REPORTS

Mayor Pro Tem Burton reported that the Mira Costa High School Rugby Team is seeking its second championship on Saturday at St John Bosco.

Mayor Powell announced that the "Why I ♥ MB Art Contest" winners were announced last week and they will be honored at the February 17, 2015, City Council Meeting.

Mayor Powell also reported that he attended the US Conference of Mayors and had the privilege of going to the White House and meeting President Obama.

Councilmember D'Errico commented on the incident in downtown Manhattan Beach and the quick action of the Manhattan Beach Police Department.

J. COMMUNITY ANNOUNCEMENTS REGARDING UPCOMING EVENTS

Tom Allard, representing the Older Adult Program and the Senior Advisory Committee announced upcoming programs including Osher Lifelong Learning Institute (OLLI) and a Candidates Forum on next Thursday, February 12, 2015.

George Butts, founder of Community Emergency Response Team, shared upcoming CERT classes, reported on the achievements of the organization in 2014, and announced the Bayou Benefit Fundraiser on April 18, 2015.

Nanette Barragan, Mayor Pro Tem of Hermosa Beach, shared the date of an

upcoming forum in which the impacts of oil drilling will be discussed. The event will be on Thursday, February 12, 2015, at the Hermosa Beach Community Center at 7:00 PM.

Neil Boyer, Manhattan Beach Residents Association, spoke of an upcoming City Council Candidate Forum on February 12, 2015, in the City Council Chambers from 7-8 PM.

Charlene Dipada, South Bay Bike Coalition, announced two upcoming events: "Bicycling and Traffic Skills 101" on February 21, 2015, at the Beach Cities Health District and "South Bay Bike Night", a fundraiser for safe cycling, at the Shade Hotel on February 28, 2015, at 6:00 PM.

Viet Ngo, Anti-corruption Advocacy, pointed out the upcoming City Council Election and urged everyone to exercise their right to vote.

K. PUBLIC COMMENT ON NON-AGENDA ITEMS

George Butts, President and founder of Community Emergency Response Team (CERT), announced the upcoming CERT Class in March and a brief overview of the year 2014.

Diane Campisi, Co-Chair of the Senior Advisory Committee, requested to be allowed to use the public access for their upcoming Candidate Forum.

Robert Bush, resident, brought up items and occurrences that have happened in the City.

Yury Gurvich, resident, referred to a letter that he sent to the Beach Reporter that was not published.

Mayor Powell commented on first amendment rights.

Viet Ngo alleged fraud in the City.

City Attorney Barrow confirmed that it is a first amendment right to wear buttons.

Bill Victor, resident and City Council Candidate, informed Council that he submitted a public records request asking for a list of consultants for the City, and is not able to obtain them in a timely matter.

L. CONSENT CALENDAR

A motion was made by Councilmember Howorth, seconded by Mayor Pro Tem Burton, to approve the Consent Calendar Item Nos 3-6. The motion carried by the following vote:

Aye: 5 - Powell, Burton, D'Errico, Lesser and Howorth

3. Award of Bid to Reynolds Buick for One Budgeted Replacement Truck (GMC) for the Public Works Department (\$26,141.14) (Finance Director Moe).

[15-0051](#)

APPROVE

Attachments: [Bid #1020-15 Comparison for Truck](#)

This item was approved on the Consent Calendar.

4. Award a Professional Engineering Services Contract to Wheeler & Gray, Consulting Engineers for Design Services for the Safe Routes to School (Cycle 3) Project in the Amount of \$76,230. (Public Works Director Olmos). [CON 15-0005](#)

APPROVE

Attachments: [Safe Routes to School \(Cycle 3\) - Budget and Expenditures](#)
[SR2S \(Cycle 3\) - Location Maps](#)
[SR2S \(Cycle 3\) - Consultant Agreement](#)

This item was approved on the Consent Calendar.

5. Award a Professional Engineering Services Contract to Wheeler & Gray, Consulting Engineers for Design Services for the Safe Routes to School (Cycle 10) Project in the Amount of \$49,975. (Public Works Director Olmos). [CON 15-0008](#)

APPROVE

Attachments: [SR2S \(Cycle 10\) Location Maps](#)
[Cycle 10 Budget and Expenditures](#)
[Cycle 10 Agreement](#)

This item was approved on the Consent Calendar.

6. Minutes: [15-0009](#)

This item contains action minutes of City Council meetings which are presented for approval. Staff recommends that the City Council, by motion, take action to approve the action minutes of the:

- a) City Council Adjourned Regular Meeting (Closed Session) of December 16, 2014
- b) City Council Adjourned Regular Meeting (Storm Water Study Session) of January 15, 2015
- c) City Council Adjourned Regular Meeting (ULI) of January 16, 2015
- d) City Council Adjourned Regular Meeting (Closed Session) of January 20, 2015
- e) City Council Regular Meeting of January 20, 2015 (City Clerk Tamura).

APPROVE

Attachments: [City Council Adjourned Regular Meeting \(Closed Session\) of December 16, 2014](#)
[City Council Adjourned Regular Meeting \(Storm Water Study Session\) of January 15, 2015](#)
[City Council Adjourned Regular Meeting \(ULI\) of January 16, 2015](#)
[City Council Adjourned Regular Meeting \(Closed Session\) of January 20, 2015](#)
[City Council Regular Meeting of January 20, 2015](#)

This item was approved on the Consent Calendar.

M. PUBLIC HEARINGS

None.

N. GENERAL BUSINESS

7. Update on Preservation and Relocation Options for the Historic George Peck House at 2620 Alma Avenue

[15-0058](#)

DISCUSS AND PROVIDE DIRECTION

Attachments: [City Council Minutes - November 18, 2014](#)
[George Peck Exhibits](#)

Mayor Powell introduced Planning Manager Laurie Jester who gave the PowerPoint Presentation on the Preservation and Relocation for the Historic George Peck House.

Planning Manager Jester responded to City Council questions

Mayor Powell opened the floor to public comment.

Jan Dennis emphasized the importance of keeping the heritage of Manhattan Beach and relayed that this house should be at Bruce's Beach.

Tim McGuire stressed the necessity for preserving the Peck House and also announced a fundraiser at the Shade Hotel on February 19, 2015, to raise funds to move the house.

Gary McAuly, President of the Historical Society, communicated that he would like to see the house moved to Polliwog Park.

Jane Guthrie, Board Member of the Manhattan Beach Cultural Conservancy, cited that she is excited about this issue and thinks Bruce's Beach is an appropriate place for it to be moved.

Craig Cadwallader, resident, supported moving the house to Bruce's Beach as a member of the Manhattan Beach Leadership Class of 2003.

Bill Victor remarked that it is important for pride in the community to have respect for its history.

Mason Lewis, resident, read from the legislative text on the potential site of Bruce's Beach and relayed that Bruce's Beach would not be a viable site for this structure.

Tim McGuire stated that he had a hard estimate of \$108,000 and could provide the estimate to the City.

Seeing no further requests to speak, Mayor Powell closed the floor to public comment.

City Council discussion continued and questions were responded to by City Attorney Barrow, Jan Dennis, and Planning Manager Jester.

A motion was made by Mayor Pro Tem Burton, seconded by Councilmember Lesser, to direct the City Manager to conduct a site visit at the George Peck

House as soon as possible, report back on the cost of moving to Bruce's Beach and Polliwog Park with a proposed timeline, report back at both locations any covenants or restrictions at either location and notify neighbors adjacent to Bruce's Beach and Polliwog Park of the decision on where to move it. The motion carried by the following vote:

Aye: 5 - Powell, Burton, D'Errico, Lesser and Howorth

At 8:47 PM City Council recessed and reconvened at 9:00 PM with all Councilmembers present.

8. Measure O: Hermosa Beach's Ballot Measure on Oil Drilling. [15-0077](#)
(Community Development Director Lundstedt).
CONSIDER RESOLUTION

Attachments: [City of Manhattan Beach Draft EIR Comment Letter and Responses](#)
[Copy of December 16, 2014 Resolution Opposing Measure O](#)
[Copy of Hermosa Beach's Measure O](#)
[Copy of Hermosa Beach's Impartial Analysis and Ballot Arguments](#)
[Litigation Information Related to Measure O](#)
[Draft Measure O Resolution](#)

Mayor Powell introduced Community Development Director Marisa Lundstedt who gave a PowerPoint Presentation with an overview of Measure O.

Community Development Director Lundstedt responded to City Council questions.

Mayor Powell opened the floor to public comment

Nanette Barragan, Hermosa Beach Mayor Pro Tem , communicated that the City Council of Hermosa Beach had not taken a position on the measure because of the litigious nature of the proponent. She further added that this is a Santa Monica Bay issue, not just a Hermosa Beach issue.

Dave Schrader, Hermosa Beach resident, brought up the Chevron Refinery to the north of Manhattan Beach citing their pumping capacity versus the maximum pumping capacity that would come from the south, Hermosa Beach.

Cheryl Main, Hermosa Beach, cited the potential impact of drilling oil on Manhattan Beach.

Mark Hopkins, Hermosa Beach, cited from the final health assessment in the Hermosa sample ballot, that the project will not have a substantial effect on the community.

Bill Victor observed that this issue is not a fair comparison to Chevron and that the Councilmembers could make statements on their own behalf.

Barbara Elman, Hermosa Beach, reported that E & B (Oil Company) have never done this before and accidents do happen all of the time.

Nancy Shroats, Manhattan Beach, urged the City Council to oppose the ballot measure.

Ed Abel, Manhattan Beach, cited some health risks associated with this project as air knows no boundaries.

Greg Maffei, Manhattan Beach, asked that the City Council consider the impact on the business aspect of this issue.

Jim Sullivan, Hermosa Beach, stated that the City should be focused on their residents and businesses and Hermosa Beach will focus on itself.

Dana Murray, Heal the Bay, related that this issue will have a negative environmental impact on the City and the Santa Monica Bay.

Gary Brown, Hermosa Beach, requested that the City not take a position on this issue.

Unknown speaker, Hermosa Beach, also requested that the City do as Redondo Beach did and not take a stand.

Betsy Ryan, Hermosa Beach, shared that to be a good neighbor the City needs to protect the Santa Monica Bay, businesses and property value.

Lorie Armendariz, Hermosa Beach, questioned why the City is not considering a resolution in support of Measure O.

Jamie Freeman, Natural Resources Defense Council, urged the opposition to Measure O and to pass the Resolution.

Phil Friedl, Hermosa Beach, commented that he urged the City to pass a resolution against Measure O.

Stacey Armato, Chairman for Stop Hermosa Beach Oil, read the decision from the court case and urged a resolution against Measure O.

Dr. Michael Collins, one of the founders of Keep Hermosa Hermosa, mentioned the potential impacts of this project and urged the Council to pass a resolution against Measure O.

Bob Rasmussen, Hermosa Beach, noted that oil sands were discovered building the new Shade Hotel in Redondo Beach and there is potential of the same issue occurring here because of an earthquake or related event and also mentioned the smell from the project.

Dan Insky, Hermosa Beach and a lifelong environmentalist, spoke about how California gets most of its oil by ship and asked for a resolution to support Measure O.

Densy Nelson, Hermosa Beach, explained that as a good neighbor the City should weigh in on this issue and noted that Hermosa Beach is capable of paying the \$17.5 million; therefore please oppose Measure O.

George Schmeltzer, Hermosa Beach, mentioned the population density, that technology is better now, but there can still be human error and asked to pass a resolution opposing Measure O.

George Barks, Hermosa Beach, related that there is no real significant impact, supports Measure O and thinks the City should be a good neighbor and not meddle.

Unknown speaker, Hermosa Beach, indicated that oil drilling impacts the entire Santa Monica Bay and urges the Council to pass a resolution opposing Measure O.

Simone, Hermosa Beach, urged the Council to take a position against Measure O and against E&B.

Unknown speaker, Hermosa Beach, noted several points against E&B and stated it was not the kind of company you would want in your back yard.

Mike Find, E&B Natural Resources, asserted that the benefits far outweigh the risks.

Kevin Sousa, Hermosa Beach, communicated that a lot of people are passionate and engaged in this issue and just remember what you want your legacy to be.

Craig Cadwallader, Surfrider Foundation and Manhattan Beach resident, conveyed his concern with the potential impact of this project.

Alicia Villarreal, Hermosa Beach, stated her concerns of safety with this project and particularly the tanker trucks on Artesia Boulevard.

Hany Fangary, Hermosa Beach City Councilmember, asked the City Council to support the resolution against Measure O, stating that it was not meddling but cooperating with the City of Hermosa for things that affect the entire South Bay.

Viet Ngo, Anti-Public Corruption, alleged that Mayor Powell met with a representative of E&B Oil, and asked that the City Council not take a position on Measure O.

Diane Wallace, Manhattan Beach, declared that she doesn't want to do harm to the environment and asked to support the people of Hermosa Beach who intend to vote "No" on Measure O.

Gerry O'Connor, Manhattan Beach, cited that Manhattan Beach was formally notified by Hermosa Beach to solicit comments on the final EIR and emphasized that the Council needs to support the resolution against Measure O.

Seeing no further requests to speak, Mayor Powell closed the floor to public comment.

Lengthy discussion continued with all City Councilmembers. City Council questions were responded to by Community Development Director Lunstedt and City Attorney Barrow.

At 11:36 PM City Attorney Barrow requested a recess to amend draft Resolution No. 15-0004. City Council reconvened at 12:00 AM with all Councilmembers present.

A motion was made by Mayor Powell, seconded by Councilmember Howorth, to adopt the redline version of Resolution No. 15-0004 with the additional revisions of: deleting the word "the" from the third line and and leaving in "of the Manhattan Beach City Council.". The motion carried by the following vote:

Aye: 5 - Powell, Burton, D'Errico, Lesser and Howorth

O. ITEMS REMOVED FROM THE CONSENT CALENDAR

None.

P. OPTIONAL ADDITIONAL PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

Q. OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS, FUTURE DISCUSSION ITEMS

Mayor Powell attended the US Conference of Mayors and he will be filing an appropriate report.

Mayor Powell stated that he felt there was a disconnect regarding allowing outside entities to have broadcast capabilities until the City Council set standards. The Senior Advisory Committee was denied usage but another non-city organization was given permission.

Councilmember Lesser inquired when the policy will come forward.

City Manager Danaj responded that the direction was at the November 5, 2014, meeting to direct the City Manager and Staff to explore expanding the use of the government channel, including giving outside groups programming opportunities and to come back with draft policies and guidelines. City Manager Danaj stated that it could come back in the next three months.

Mayor Powell stated that he thought the forum should be allowed, but not be broadcast.

Mayor Pro Tem Burton stated that the residents were expecting the broadcast.

R. RECEIVE AND FILE ITEMS

Mayor Powell opened the floor to public comment.

Seeing no requests to speak, Mayor Powell closed the floor to public comment.

A motion was made by Mayor Pro Tem Burton, seconded by Councilmember Howorth, that this item be received and filed. The motion carried by the following vote:

Aye: 5 - Powell, Burton, D'Errico, Lesser and Howorth

- 9. Financial Report: [15-0062](#)
 Schedule of Demands: January 15, 2015 (Finance Director Moe).

RECEIVE AND FILE

Attachments: [Schedule of Demands Register for January 15, 2015.pdf](#)

This item was received and filed.

S. ADJOURNMENT

At 12:18 AM the Regular City Council Meeting was adjourned to the 4:30 PM Adjourned Regular City Council Meeting (Closed Session) on Tuesday, February 17, 2015.

Matthew Cuevas
Recording Secretary

Wayne Powell
Mayor

ATTEST:

Liza Tamura
City Clerk

Agenda Date: 2/17/2015

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Bruce Moe, Finance Director

Steve Charelian, Revenue Services Manager

SUBJECT:

Renewal of the North Manhattan Beach Business Improvement District and Approval of Assessments for Fiscal Year 2015-2016 (Finance Director Moe).

a) CONDUCT PUBLIC HEARING

b) ADOPT RESOLUTION NO. 15-0008

c) RATIFY 2015 BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD MEMBERS

RECOMMENDATION:

Staff Recommends that the City Council:

a) Conduct a Public Hearing;

b) Adopt Resolution No. 15-0008 renewing the district and providing for the collection of assessments for the North Manhattan Beach Business Improvement District (NMB-BID); and

c) Ratify the Business Improvement District Advisory Board Members for 2015.

FISCAL IMPLICATIONS:

The North Manhattan Beach Business Improvement District is funded through an 80% surcharge on the business license tax to a maximum of \$500 per year. Collections for the fiscal year are estimated to be \$23,000. North Manhattan Beach Business Improvement District reserves total \$532,510.17 including \$130,964.19 remaining for a capital project for beautification originally budgeted in 2007 (total project cost of \$370,000). Those funds have been carried forward into fiscal year 2014-2015.

BACKGROUND:

In January 2004, the City Council dissolved the existing North End Business Improvement District formed in 1969 under the State's Parking and Business Improvement District Law of 1965. The BID was fairly limited in scope and was mainly designed to address parking acquisition and construction. Because opportunity for the acquisition of parking in the North End is limited, the businesses being assessed wanted to use the funds for other types and

activities, such as physical improvements, signage, marketing, and promotion to name a few. To accommodate this change, the City Council dissolved the previous Business Improvement District and created the new Business Improvement District under the broader 1989 Business Improvement District law.

DISCUSSION:

The North Manhattan Beach Business Improvement District and the associated assessments must be renewed annually. As required by law, the City Council adopted a resolution at the meeting of January 20, 2015, that set tonight's meeting to hear testimony in support of, and against, the proposed assessments. This public hearing has been properly noticed in accordance with State law.

The Resolution of Intention was circulated to all North Manhattan Beach businesses paying into the Business Improvement District, and was published in the Beach Reporter. If adopted by the City Council tonight, Resolution No. 15-0008 (Attachment 1) will become effective immediately and will set the assessment at 80% surcharge on the business license tax to a maximum of \$500 for North Manhattan Beach businesses. This assessment remains unchanged from last year and will be in effect for the next assessment cycle which coincides with the FY 2015-2016 business license period.

A necessary requirement of the Business Improvement District is the establishment of an Advisory Board. Advisory Board duties include recommendations to the City Council on expenditure of revenues derived from the assessments, as well as the method and basis of levying the assessments. The following is a list of nominees for the 2015 Advisory Board and their affiliation with the district. As required by State law, the City Council is required to ratify nominees:

- James McCleary, Sea View Inn (Chairperson)
- Harry Ashikian, Salvatore's Shoe Repair (Vice Chairperson)
- Janice Davenport, Pancho's Restaurant (Recording Secretary)
- Steve Delk, OB's Pub & Grill
- Peter Kim, Sloopy's
- Steve Oliveira, Steve Oliveira, D.D.S.
- Anthony Sulaiman, Sharkeez

This board was selected by the membership at the December 2014 Business Improvement District Advisory Board meeting through an adopted nomination and balloting process.

Another role of the Business Improvement District Advisory Board is to review and approve the operating plan for the District. The 2015 Projects and Activity Plan (Attachment 2) contains all information relative to projected revenues and expenses, and outlines the services and programs to be funded by the Business Improvement District. This year, the operating plan identifies the following potential programs for 2015:

- Develop a BID website survey - update North MB business emails.
- Refresh the current North MB BID website www.northmb.info <<http://www.northmb.info>>.
- Explore opportunities to create additional North MB BID events for marketing.
- Focus on social media opportunities for branding and marketing opportunities.

- Update map enhancements for the directories using a professional graphical artist.
- Develop uniform decorating strategies to better promote the annual Winter Holiday Walkabout.
- Explore expanding parking opportunities to accommodate visitors.
- Work closely with the Chamber of Commerce and Downtown MB BID for marketing opportunities.
- Explore lighted crosswalks on Highland Avenue (pending adoption of the City's Mobility Plan).

In past years, the City Council approved several improvements including curb extensions, landscaping, trees, an entry monument and business directories. The Business Improvement District will approach the City Council with future requests as they are identified.

In compliance with State law, copies of the Resolution of Intention adopted on January 20, 2015, were mailed to all North MB BID members on January 22, 2015. A Public Notice was placed in the January 29, 2015 Beach Reporter publication.

CONCLUSION:

Staff recommends that the City Council conduct a Public Hearing. If there is not a majority protest of the assessment payers, City Council may then choose to adopt Resolution 15-0008, which will maintain the BID for 2015 and the associated assessments scheduled to be collected in FY 2015-2016. Staff also recommends that the City Council ratify the BID board for 2015.

Attachments:

1. Resolution No. 15-0008
2. 2015 Projects and Activity Plan

RESOLUTION NO. 15-0008

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL OVERRULING PROTESTS AND PROVIDING FOR THE ANNUAL LEVY AND COLLECTION OF ASSESSMENTS FOR THE EXISTING NORTH MANHATTAN BEACH BUSINESS IMPROVEMENT DISTRICT, PURSUANT TO CALIFORNIA STREETS AND HIGHWAYS CODE SECTION 36500 ET. SEQ. (SB 1424 - PARKING & BUSINESS IMPROVEMENT LAW OF 1989, CHAPTER 2)

THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES, FINDS AND DETERMINES:

SECTION 1. The City Council hereby finds:

A. The City Council has formed a Property & Business Improvement District pursuant to the provisions of the Parking & Business Improvement Law of 1989 (the "Act," codified at California Streets and Highways Code Section 36500) for providing services to the businesses within the area designated as the North Manhattan Beach Business Improvement District (the "District").

B. On January 20, 2015, the City Council adopted Resolution No. 15-0002 declaring its intention to authorize the collection of assessments to provide services in accordance with the 2015 Enhancement Project and Activity Plan for the period beginning January 1, 2015, and ending December 31, 2015 (the "Report"), with such services to be performed within the District.

C. Resolution No. 15-0002 fixed the time and place for a public hearing of any and all protests in relation to the proposed assessment for February 17, 2015.

D. Evidence has been received as to the publication and mailing of notice of such hearing in the time, form and manner required by law.

E. This Resolution is Categorically Exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the approval may have a significant effect on the environment.

SECTION 2. On February 17, 2015, the City Council held a duly noticed full and fair public hearing regarding the levy and collection of an assessment against businesses within the District for fiscal year 2015-2016. At the public hearing, the Council considered testimony of all interested persons regarding the levy of any assessment against businesses within the District for fiscal year 2015-2016. The City Council hereby determines that there was no majority protest within the meaning of the Act.

SECTION 3. Based upon its review of the Report, a copy of which has been presented to the City Council and which has been filed with the City Clerk, and other reports and information presented to the City, the City Council hereby finds and determines that (i) the businesses in the District will be benefitted by the expenditure of funds raised by the assessment for fiscal year 2015-2016, (ii) the District includes all of the businesses so benefitted, and (iii) the net amount of the assessment levied within the District for fiscal year 2015-2016 in accordance with Resolution No. 15-0008 and the Report, is apportioned by a formula and method which fairly distributes the net amount in proportion to the estimated benefits to be

received by each such business.

SECTION 4. The City Council hereby confirms the Report as originally filed.

SECTION 5. The adoption of this resolution constitutes the levy of an assessment for fiscal year 2015-16.

SECTION 6. This resolution shall take effect immediately upon adoption.

SECTION 7. The City Clerk shall certify to the passage and adoption of this resolution.

PASSED, APPROVED and ADOPTED this 17th day of February, 2015.

Ayes:
Noes:
Abstain:
Absent:

Wayne Powell
Mayor City of Manhattan Beach

ATTEST:

Liza Tamura, City Clerk

**NORTH MANHATTAN BEACH
BUSINESS IMPROVEMENT DISTRICT
(NORTH MB BID)**

Enhancement Projects and Activity Plan
2015

Location: The area generally surrounding the Rosecrans Avenue and Highland Avenue intersection. Specific boundaries are:

- (north to south) the extent of the Highland Avenue right-of-way from the northernmost City line at 45th Street to 32nd Place on the south;
- (east to west) the extent of Rosecrans Avenue right-of-way from Bell Avenue to the west side of Highland Avenue

Stakeholders: North Manhattan Beach Businesses – All business license holders in the North Manhattan Beach area, with the exception of home-based businesses, residential rental units and commercial property owners.

Improvements and Activities:

- A. Capital Improvement Project Design
- B. Marketing & Advertising
- C. Project Implementation
- D. Professional Communications

Method of Financing: Benefit-based assessments on City Business License Tax

Assessment: An 80% surcharge on the City Business License Tax not to exceed \$500.00.

Collection: The fees are collected in March/April of each year with the Business License Tax. The funds shall be retained in a designated fund and disbursed through the City.

Governance: A City Council-ratified Advisory Board serves to make recommendations to the City Council for the North Manhattan Business Improvement District (BID) on such topics as budget and assessments. The Advisory Board consists of seven (7) members composed of area business owners, residents, or members at large. The City Council ratifies the board members annually. It is anticipated that the Advisory Board will meet at least once per Month on the 1st Wednesday at 6:00 PM.

In delivering BID improvements and activities, the Advisory Board will strive to meet the following objectives:

- Maximize coordination with the City and other civic organizations to leverage resources;
- Identify streetscape, landscape and other improvements, and create an identity plan for North Manhattan Beach;

- Provide accountability to business owners who pay assessments.

Maintaining the District:

The City Council maintains the district by adopting a Resolution of Intention. A public hearing shall be held after the adoption of the Resolution of Intention. If there is insufficient protest from owners representing over 50% of the assessments to be paid, the BID assessment will continue.

Benefits of the District:

The BID allows for streetscape, signage and landscape improvements, and creation of a North Manhattan Beach identity through integrated marketing efforts such as promotions, branding and advertising.

The BID shall provide key promotional and organizational support through a variety of functions that directly benefit its ratepayers as well as the City; such as:

- Enhancing the appearance of North Manhattan Beach through signage, landscaping, etc.,
- Establishing and implementing a North Manhattan vision, and a beautification image that is in line with the rest of Manhattan Beach and one that reflects the good health and economic vitality of the entire City; making the City an attractive venue for business.
- Providing an inclusive link to the north end of the City.

ENHANCEMENT PROJECT AND ACTIVITY PLAN

The BID work plan for 2015 includes the following items:

- **Marketing:**
 - Use website for NMB BID visitor outreach and marketing - update and enhance the current website. Research professional guidance for implementing social media through Facebook, Twitter etc.
 - Develop a NMB BID web site survey and collect updated emails. Evaluate e-notification opportunities on NMB BID website (www.northmb.info).

- Continue efforts to promote Holiday Winter Walkabout event. Review holiday lighting/decoration strategies and partnerships.
- Look for opportunities to enhance participation by NMB BID businesses.
- Explore opportunities to create additional NMB BID events.
- Review feasible options to develop a NMB BID master plan.
- Work with the Chamber of Commerce for additional marketing opportunities.
- Update the Entry Monument sign lettering on Rosecrans Ave for better visibility.
- Update three directories with outer color change and powder coat enhancements.
 - New professional graphically enhanced directory maps.
- **Parking:**
 - Look to expand parking opportunities to accommodate visitors to the NMB BID.
 - Lighted crosswalk in conjunction with the specification with the City’s Mobility Plan.

- **Budget:**

FY 2013-2014 Actuals			
Beginning Reserve Balance July 1, 2013		\$	520,514.22
Revenues			29,061.14
Interest			4,344.90
Expenditures			(21,410.09)
Ending Reserve Balances as of June 30, 2014		\$	<u>532,510.17</u>
FY 2014-2015 Budget			
Beginning Reserve Balance July 1, 2014		\$	532,510.17
Budgeted Revenues (1)			22,000.00
Approved appropriations - CIP Carry Forward from Prior Years (2)			(130,964.19)
Projected Ending Reserve Balance as of June 30, 2015 (3)		\$	<u>423,545.98</u>
<i>(1) Budgeted Revenues are projected based on business license tax assessments not to exceed \$500 annually per business.</i>			
<i>(2) Approved appropriations consist of the balance from the original \$370,000 CIP amount budgeted in FY 2006-2007 to beautify and maintain North Manhattan Beach including: directories, monuments, tree trimming, power washing, sidewalk improvements, etc.</i>			
<i>(3) The Projected Ending Reserve Balance is based on actual reserves at the beginning of the fiscal year adjusted for projected revenues and funds remaining in the CIP carried over from previous years.</i>			

Agenda Date: 2/17/2015

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Robert D. Espinosa, Fire Chief

SUBJECT:

Leadership Manhattan Beach's Report on the Pier Telescope Replacement Project and Review and Direction on the Location of Two New Telescopes in the Upper Strand Parking Lots (Fire Chief Espinosa).

RECEIVE REPORT AND APPROVE

RECOMMENDATION:

Staff recommends the City Council approve the Leadership Manhattan Beach's project to replace the telescopes on the pier with the inclusion of educational panels and provide direction on potential installation of telescopes in the upper Strand parking lots.

FISCAL IMPLICATIONS:

The expired license agreement with Turomatic Mach. Inc. required the vendor to pay the city thirty-three and one-third per cent (33.33%) of the gross annual receipts or an annual minimum payment of five hundred dollars (\$500) per telescope (there are two telescopes), whichever is greater. The amount due has been \$1,000 for the past several years.

Turomatic was responsible for collecting coins from the telescopes and providing maintenance and repairs. The city's Public Works Department will collect the coins from the replacement devices. All money collected will go towards the cost of future service and maintenance of the machines. Using the amounts the licensee paid the city annually, the two replacement devices should provide over \$2,000 each year. These monies will be deposited in the City's pier maintenance fund.

BACKGROUND:

The Manhattan Beach Leadership is a non-profit organization whose mission is to develop and unite community leaders. Since 1992, each year a class has developed and completed a project for the benefit of the community. Class of 2015's mission statement is to enhance the Manhattan Beach pier as the place where the community and visitors can be inspired by

the scenic beauty of the South Bay.

The class selected a project to replace the monocular telescopes on the pier with binocular viewing devices. The licensee agreement with Turomatic expired on October 7, 2006. The city had continued its relationship with the licensee after 2006, holding the licensee to the conditions of the agreement. The city's Finance Department has notified the licensee that we are terminating the agreement as described in the written agreement.

DISCUSSION:

Tuomatics had an agreement with the City of Manhattan Beach to provide two telescopes on the Manhattan Beach Pier at or near the waterline. The cost to use the telescopes was 25 cents for three minutes. The licensee was responsible for maintenance and repairs to the devices. Members of the Leadership team on a few occasions attempted to use the telescopes and reported the viewing as poor.

This may be attributed to the condition of the telescopes. The licensee is not required to submit service and maintenance records. If the device fails to perform satisfactorily or not at all or if users lose money there was no contact information to report these conditions.

Another observation the team made was the small field of view. The monocular telescopes provide a high magnification, but a very narrow field of vision. Points far away could be seen, but the picture is small. The proposed replacements will be binocular telescopes which will offer panoramic views and vistas of the local area. The wider and less magnified view allows users the ability to observe sea-life and recreational activities along the Manhattan Beach coast.

Leadership Manhattan Beach projects generally have a phased approach to completion. Phases are based upon fundraising success. The Class of 2015 is no different. We have a \$40,000 fundraising goal. Phase I is to replace one of the telescopes on the pier and provide an educational panel with points of interests for the viewer. Phase II duplicates Phase I for a second telescope. Phase III is to place a monocular telescope with an additional viewing device for special needs access (American with Disabilities Act) and an educational panel with the history of the Manhattan Beach Pier in the southern upper Strand parking lot. Phase IV would be to place a monocular telescope with educational panels in the north upper parking lot.

CONCLUSION:

The Leadership Manhattan Beach class of 2015 has invested time and resources to develop a project that the community can enjoy for years to come. The Leadership Manhattan Beach organization has worked in partnership with the City and has provided many quality and useful projects to the residents and visitors for over 20 years. Enhancing the experience of the visitors on the pier will enhance tourists, visitors, and resident's experience on the Manhattan Beach Pier.

Attachment:

1. Pier Telescopes Agreement

RECEIVED
CITY CLERK'S OFFICE
05 JUN -8 A 8 08

LICENSE AGREEMENT

THIS AGREEMENT is entered into this 07th day of October, 2005, by and between the CITY OF MANHATTAN BEACH, a municipal corporation, (hereinafter "City"), and Turomatic Mach. Co., Inc., a California Corporation dba Sight Instruments, located at 1969 Obispo Avenue, Signal Hill, CA 90755-1223, Telephone Number (562)427-5853 (hereinafter as "Licensee").

**IN CONSIDERATION OF THEIR MUTUAL COVENANTS AND CONDITIONS
THE PARTIES HERETO AGREE AS FOLLOWS:**

1. TERM AND PURPOSE OF LICENSE.

The City hereby grants to Licensee upon each of the covenants and conditions set forth herein for the period commencing on **October 07, 2005** and ending **October 07 2006**, subject to cancellation as herein set forth, a license to maintain coin-operated telescopes on the Manhattan Beach Pier, (hereinafter "Premises"):

- A) Two on the Manhattan Beach Pier at about a position above the waterline.
Exact location to be City approved.
City and Licensee agree that this license does not confer any exclusive rights in Licensee.

2. PREMISES.

The premises covered by this License Agreement shall be only such as are described in Paragraph 1 above, and the Licensee shall not use any premises or property that is not specifically described herein.

The City and Licensee may, by mutual agreement, establish locations in addition to those described in Paragraph 1 above. The City reserves the right to approve or reject each location on an individual basis. If additional locations are established, the yearly guaranteed payment set forth in Paragraph 3 shall be increased proportionately to the increase in the number of locations. The percentage of gross receipts set forth in Paragraph 3 shall remain unchanged.

3. QUARTERLY PAYMENT.

Licensee shall pay to City a percentage payment of thirty-three and one-third per cent (33-1/3%) of the gross receipts from the telescopes or an annual minimum payment of Five Hundred Dollars (\$500.00) per year per telescope, whichever is greater. The percentage payments shall be payable not later than fifteen (15) days after the end of each quarter year during the term of this Agreement, and, at the time that payments are made, Licensee shall furnish City with meter readings for each telescope. In the event the total gross receipts for each year during the term of this Agreement is less than the annual minimum payment, Licensee shall pay the difference within fifteen (15) days after the end of each year.

A. Payment to the City shall be made to the order of the City of Manhattan Beach and made at the Manhattan Beach Parks and Recreation Department, 1400 Highland Avenue, Manhattan Beach, CA 90266.

B. Cost to the consumer to operate the telescopes is currently set at twenty-five cents (25 ¢) per three minutes. Any change to this pricing level would require City approval.

4. EQUIPMENT.

All equipment shall be provided at the sole expense of the Licensee; and all such equipment, furnishings, and its use on the Pier shall be subject to the prior written approval of the City.

A) Telescopes placed on the Manhattan Beach Pier shall be painted with Sinclair Paints, aqua marine (#CM8312).

B) All maintenance of the equipment shall be provided by and at the expense of the Licensee.

5. UTILITIES.

The Licensee shall pay all charges for fuel, gas, water, electricity, and telephone services necessary to carry on the operations of Licensee.

6. ALTERATIONS.

Licensee accepts the premises in the condition they now are and the City shall not be required to make any alterations, improvements or repairs therein or thereon, and the Licensee hereby waives any and all rights, if any it may have, to any expressed or implied warranties concerning the condition of Premises. Licensee shall not make any changes in, decoration of, alterations or additions to, or remove any portion of the Premises without first securing the consent of City in writing.

A) Any vehicles used by the Licensee in the conduct of work pertaining to the telescopes on the Manhattan Beach Pier shall be limited to a maximum weight of 10,000 lb., if they are to drive on to the Pier itself.

B) The City can not provide the Licensee any utilities on the Manhattan Beach Pier (electric, telephone, etc.).

7. SIGNS AND ADVERTISEMENTS.

No signs or advertising matter of any kind shall be displayed unless and until approved in writing by City and such consent will not be unreasonably withheld.

8. CONDUCT.

The Licensee shall at all times conduct its business in a quiet and orderly manner to the satisfaction of City so that same shall not become nor constitute a nuisance either public or private.

9. TAXES.

Licensee shall pay any and all taxes upon personal property and improvements belonging to said Licensee located on said Premises and upon his possessory interests, if any, including but not limited to increased property tax in the Premises, and Licensee shall pay all sales and other taxes levied against the operation of said business.

10. INSURANCE.

10.1 Commencement of Work. Licensee shall not commence work under this Agreement until it has obtained City approved insurance. Before beginning work hereunder, during the entire period of this Agreement, for any extensions hereto, and for periods after the end of this Agreement as indicated below, Licensee must have and maintain in place, all of the insurance coverages required in this Section 10. Licensee insurance shall comply with all items specified by this Agreement. Any subcontractors shall be subject to all of the requirements of this Section 10 and shall be responsible to obtain evidence of insurance from each subcontractor and provide it to City before the subcontractor commences work.

All insurance policies used to satisfy the requirements imposed hereunder shall be issued by insurers authorized to do business in the State of California. Insurers shall have a current A.M. Best's rating of not less than A-:VII unless otherwise approved by City.

10.2 Coverages, Limits and Policy Requirements. Licensee shall maintain the types of coverages and limits indicated below:

(1) **COMMERCIAL GENERAL LIABILITY INSURANCE** – a policy for occurrence coverage, including all coverages provided by and to the extent afforded by Insurance Services Office Form CG 0001 ed. 11/88 or 11/85, with no special limitations affecting City. The limit for all coverages under this policy shall be no less than one million dollars (\$1,000,000.00) per occurrence. City, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the City with thirty (30) days prior written notice of cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would

make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by City. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 1 (General Liability) must be executed by the applicable insurance underwriters.

- (2) WORKER'S COMPENSATION INSURANCE – a policy which meets all statutory benefit requirements of the Labor Code, or other applicable law, of the State of California. The minimum coverage limits for said insurance shall be no less than one million dollars (\$1,000,000.00) per claim. The policy shall contain, or be endorsed to include, a waiver of subrogation in favor of City.

10.3 Additional Requirements. The procuring of such required policies of Insurance shall not be construed to limit Licensee's liability hereunder, nor to fulfill the indemnification provisions and requirements of this Agreement. There shall be no recourse against City for payment of premiums or other amounts with respect thereto. City shall notify Licensee if Licensee does not deposit copies of acceptable insurance policies with City incorporating such changes within sixty (60) days of receipt of such notice. Licensee shall be deemed in default hereunder.

Any deductibles or self-insured retentions must be declared to and approved by City. Any deductible exceeding an amount acceptable to City shall be subject to the following changes:

- (1) either the insurer shall eliminate, or reduce, such deductibles or self-insured retentions with respect to City and its officials, employees and agents (with additional premium, if any, to be paid by Licensee); or
- (2) Licensee shall provide satisfactory financial guarantee for payment of losses and related investigations, claim administration, and defense expenses.

10.4 Verification of Compliance. Licensee shall furnish City with original Endorsements effecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by the insurer to bind coverage on its behalf. All endorsements are to be received and approved by City before work commences. Not less than fifteen (15) days prior to the expiration date of any policy of insurance required by this Agreement, Licensee shall deliver to City a

binder or certificate of insurance with respect to each renewal policy, bearing a notation evidencing payment of the premium therefore, or accompanied by other proof of payment satisfactory to the City.

11. LAW AND ORDINANCES.

Licensee shall conduct its business in accordance with all laws, ordinances, rules and regulations applicable to such business, as from time to time adopted by the City, County, State and United States, and Licensee shall not use said premises nor any part thereof, nor permit them to be used, or any purposes other than those specified in this License Agreement.

12. PERMITS AND LICENSES.

The Licensee shall be required to obtain any and all permits or licenses that maybe required from time to time in connection with its operations.

13. PROHIBITION AGAINST TRANSFER.

Licensee shall not assign, sublease, hypothecate, or transfer this Agreement or any interest therein directly or indirectly, by operation of law or otherwise without the prior written consent of City; any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecatee or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Licensee, or of the interest of any general partner or joint venturer or syndicate member or covenant if Licensee is a partnership or joint venturer or syndicate or covenant, which shall result in changing the control of Licensee, shall be construed as an assignment of this Agreement. Control means fifty (50 %) percent or more of the voting power of the corporation.

14. WAIVERS.

A waiver by the City or any breach of any term, covenant or condition contained herein shall be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein whether of the same or a different character.

15. HOLDOVER.

Any holding over the Licensee after the expiration or any termination of this License Agreement or by any extension or renewal thereof shall not constitute a renewal of extension of the term hereof.

16. SECURITY INTEREST.

The City shall have a security interest upon and against all personal belongings of Licensee and user in connection with said Premises to secure the payment of any and all sums due to the City pursuant to the terms of this License Agreement.

17. HOLD HARMLESS.

Licensee shall indemnify and hold harmless the City of Manhattan Beach, the Manhattan Beach Parks and Recreation Department, the State of California, commissions, officers, agents, and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses, whatsoever, including reasonable attorney's fees, regardless of the merit or outcome of any such claim or suit, arising from or in any manner connected to the services or work conducted pursuant to this Agreement.

Licensee shall indemnify, defend and same harmless the City of Manhattan Beach, the Manhattan Beach Parks and Recreation Department, the State of California, their boards and commissions, officers, agents and employees from and against any and all claims and losses whatsoever, including reasonable attorney's fees, accruing or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, equipment or supplies in connection with services or work conducted or performed pursuant to this Agreement and arising out of such activities or work, and from any and all claims and losses whatsoever, including reasonable attorney's fees, accruing or resulting to any person, firm or corporation for damage, injury or death arising out of Licensee's operations.

Without limiting the generality of the foregoing, Licensee hereby agrees that the City of Manhattan Beach, the Manhattan Beach Parks and Recreation Department, the State of California, their boards and commissions, officers, agents and employees, shall not be liable for injury to Licensee's business or any loss of income therefrom or for damage to the good wares, merchandise or other property of Licensee, Licensee's employees, invitees, customers, or any other person in or about the Premises, nor shall the City of Manhattan Beach, the Manhattan Beach Parks and Recreation Department, the State of California, their boards and commissions, officers, agents and employees, be liable for injury to the person of Licensee, Licensee's employees, agents or contractors, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliance, plumbing, air-conditioning or lighting fixtures, crime, or from any other cause, whether the said damage or injury results from conditions arising upon the Premises or upon other portions of any building of which the Premises are a part, or from other sources or places and regardless or whether the cause of such damage or injury or the means of repairing the same is inaccessible to Licensee.

18. INDEPENDENT CONTRACTOR.

It is understood and agreed that Licensee, in the performance of this Licensee Agreement will be acting in the wholly independent capacity and not as agents, employees, partners, or joint venturers of the City. Nothing contained herein is to be construed to create any form of a tenancy between City and Licensee.

19. TERMINATION BY CITY.

A) In the event Licensee hereto fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Licensee shall be deemed in default in the performance of this License Agreement. If such default is not cured within a period of two (2) City work days after receipt by Licensee from City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, City may terminate the Agreement forthwith by giving to the defaulting party written notice thereof.

B) Upon any termination, the Licensee shall pay to City that proportion of the compensation specified in Paragraph #3 hereof unpaid by Licensee prior to the effective date of termination or other incompleteness of the License Agreement.

C) Upon any termination, City shall have the right, with twenty-four (24) hours written notice, to remove and dispose of any and all personal property, furnishings and equipment which remains on Premises without judicial action.

20. NOTICES.

All notices, demands, requests for approvals to be given under this Agreement, shall be given in writing and shall be deemed served when delivered personally, or seventy-two (72) hours after the deposit thereof in the United States Mail, postage prepaid, registered, or certified, addressed as hereinafter provided.

All notices, demands, requests or approvals from the Licensee to City shall be addressed to the Manhattan Beach Parks and Recreation Department, 1400 Highland Avenue, Manhattan Beach, CA 90266, ATTN: Director.

All notices, demands, requests or approvals from the City to Licensee shall be addressed to: Sight Instruments, 2655 St. Louis, Signal Hill, CA 90806.

21. PRODUCTION OF STATEMENT, RECORDS, AND AUDIT.

Licensee shall submit, at the sole cost of Licensee, a Certified Statement of Gross Receipts quarterly showing with respect to each use or business conducted on the Premises the Gross Receipts thereof and the rental due the City.

City may specify the method, manner and procedure for preparation and maintenance of the financial records pertaining to the Premises.

City shall have the right, without prior notice and at City's expense, to audit Licensee's books and records to verify the payment due City. Such audit may be made at

anytime during normal business hours without prior notice by City. If City's audit discloses an error of five percent (5%) or more in gross receipts as reported by Licensee and City's audit is correct,

Licensee shall pay the cost of City's audit computed on the basis of four (4) times the direct payroll of the audit staff completing the audit and audit report.

22. INTEREST ON PAST-DUE OBLIGATIONS.

Except as expressly herein provided, any amount due to City not paid when due shall bear interest at the maximum rate then allowable by law from the date due. Payment of such interest shall not excuse or cure any default by Licensee under this Agreement, provided, however, that interest shall not be payable on late charges incurred by Licensee nor on any amounts upon which late charges are paid by Licensee.

23. COSTS OF LITIGATION.

If any legal action is necessary to enforce any provision hereof or for damages by reason of an alleged breach of any provisions of this Agreement, the prevailing party shall be entitled to receive from the losing party all costs and expenses and such amount as the court may adjudge to be reasonable attorney's fees for the costs incurred by the prevailing party in such action or proceeding.

24. COUNTERPARTS.

This Agreement may be executed in several counterparts, each of which is an original, and all of which together constitute by one and the same document.

25. CAPTIONS FOR CONVENIENCE.

The captions herein are for convenience and reference only and are not a part of the Agreement and do not in any way limit, define, or amplify the terms and provisions hereof.

26. GOVERNING LAW.

This Agreement has been made and shall be construed and interpreted in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first above written.

APPROVED AS TO FORM:


Robert V. Wadden, Jr.
~~Interim~~ City Attorney

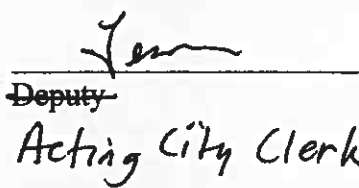
CITY OF MANHATTAN BEACH
A Municipal Corporation

By: 
Geoff Dolan
City Manager

LICENSEE:
Turomatic Mach. CO., Inc.
A California Corporation
dba Sight Instruments

By: 
Roger Jesme
President

By: 
Richard A. Gill
Director of Parks and Recreation

Attest by: 
~~Deputy~~
Acting City Clerk

Agenda Date: 2/17/2015

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Bruce Moe, Finance Director
Henry Mitzner, Controller
Libby Bretthauer, Financial Analyst

SUBJECT:

Fiscal Year 2014-2015 Mid-Year Budget Report; Discuss and Provide Direction Regarding the Information Technology Director Position (Finance Director Moe).

RECEIVE REPORT; DISCUSS AND PROVIDE DIRECTION; APPROPRIATE

RECOMMENDATION:

Staff recommends that the City Council: a) receive the Mid-Year Budget Report for Fiscal Year 2014-2015; b) appropriate \$1,050,000 from the Insurance Reserve Fund; c) approve a budget adjustment/appropriation to reallocate a portion of the previously approved Cashiering System upgrade to the Water (\$18,000), Refuse (\$6,000) and Parking (\$6,000) funds; and c) discuss and provide direction regarding the Information Technology Director position.

FISCAL IMPLICATIONS:

Current budget projections indicate that the City will finish fiscal year 2014-2015 with a surplus of \$587,619 in the General Fund. The status of other funds is discussed later in this report. Additionally, two budget adjustments are requested, which are described in detail below.

DISCUSSION:

Overall, the fiscal year 2014-2015 General Fund budget-to-actuals through mid-year are performing ahead of expectations. Revenues are estimated to exceed the adjusted budget by \$1,345,866 (2.2%). Expenditures (including all budget adjustments subsequent to adoption) are expected to total \$930,837 (1.5%) under the adjusted budget (the Adjusted Budget includes City Council-approved amendments during the current year as well as encumbrances carried forward from the prior year which are added to the budgeted expenditures in the new fiscal year). When comparing estimated year-end revenues and

expenditures irrespective of the budget, a surplus of \$587,619 is conservatively projected.

It is important to note that the policy reserve of 20% of General Fund expenditures (\$12.1 million) and the economic uncertainty reserve of \$4 million are maintained. Staff projects an unreserved General Fund balance of \$2.3 million at fiscal year-end.

See Attachment #1, Table 1 for General Fund Projections.

General Fund Revenues

The following are highlights of several key revenue areas. Please see Table 2 on Attachment #1 for General Fund Revenues.

Property Tax

Property tax is the General Fund's largest revenue source, accounting for approximately 40% of total revenue. The forecast is for Property Tax as a group to come in \$366,611 (1.5%) over budget and \$924,023 (4.0%) ahead of last year. Assessed property values have grown 5.5% from fiscal year 2014, reflecting the continued strength of the Manhattan Beach housing market. This continues the trend from the prior year's 5.8% growth.

FY 2012 Revenue: \$20,408,314
FY 2013 Revenue: \$21,626,175
FY 2014 Revenue: \$23,353,741
FY 2015 Budget: \$23,911,150
FY 2015 Full Year Estimate: \$24,277,761

Real Estate Transfer Tax

Real Estate Transfer Tax revenue is derived from a charge of fifty-five cents per \$500 of sales price, split evenly between the City and the County of Los Angeles. Home sales volume increased by 25%, with single family residential sales volume for calendar year 2014 (498 units) up significantly from 2013 (398 units). The median price increased to \$1.9 million, up by 19.1% (Source: L.A. County DataQuick Property Data). Given this shift in the number of sales and prices, this revenue is expected to be 16.7% above the prior year, and to outperform budget by \$155,000 (26.1%).

FY 2012 Revenue: \$521,274
FY 2013 Revenue: \$587,399
FY 2014 Revenue: \$642,718
FY 2015 Budget: \$595,000
FY 2015 Full Year Estimate: \$750,000

Sales Tax

Sales Tax, the city's second largest General Fund revenue source (15% of total revenue) is trending lower. At this point in time, staff is projecting that sales tax will fall short of budget by \$295,098 (3.2%). This is primarily due to slow growth of retail sales in Manhattan Beach; the most recent quarter reported (July-September 2014) had anemic growth of 1.9% compared to the same quarter last year.

Overall trends within the State indicate that 12% of all General Consumer Goods purchases

are now made on-line, compared to less than 8% on FY 2011-2012. This impacts point-of-sale tax revenues since much of the associated sales tax collected goes into a countywide pool and is allocated based on the City's share of point-of-sale taxes countywide. This trend is expected to continue, impacting the City's future sales tax revenues. Lower fuel prices, which are expected through much of 2015, will affect sales tax receipts received in the current quarter (Q3 of FY 2014-2015).

FY 2012 Revenue: \$8,702,672
FY 2013 Revenue: \$9,301,731
FY 2014 Revenue: \$9,135,807
FY 2015 Budget: \$9,112,873
FY 2015 Full Year Estimate: \$8,817,775

Transient Occupancy Tax

Also known as the hotel bed tax, the City levies a 10% Transient Occupancy Tax (TOT) on hotel and motel rooms with 8.5% going to the General Fund and the remaining 1.5% going to the Capital Improvement Fund to fund Police & Fire Facility debt service and future projects (the City also collects TOT on vacation rental properties, but the entire 10%, approximately \$100,000, remains in the General Fund). Revenues for the full year are expected at 7.5% above budget and 10.6% above the prior year.

General Fund

FY 2012 Revenue: \$2,671,897
FY 2013 Revenue: \$3,221,069
FY 2014 Revenue: \$3,565,093
FY 2015 Budget: \$3,669,000
FY 2015 Full Year Estimate: \$3,942,914

Building Permit & Plan Check Fees

Building Permits are projected to increase over last year's results, but Plan Check Fees are expected to be slightly below the prior year. The number of home demolitions, a leading indicator of future building activity, is up 86.5% through December compared to the same period last year (69 versus 37 permits). Building permits issued have increased by 11.6% (from 743 to 829 for the same periods in 2013 and 2014). Building permit fee revenues are expected to come in ahead of budget by \$40,000 (3.4%), while plan check fee revenues are expected to meet budget based on recent activity.

Building Permits

FY 2012 Revenue: \$ 818,417
FY 2013 Revenue: \$ 872,218
FY 2014 Revenue: \$1,031,410
FY 2015 Budget: \$1,160,000
FY 2015 Full Year Estimate: \$1,200,000

Plan Check

FY 2012 Revenue: \$ 958,673

FY 2013 Revenue: \$1,041,846
FY 2014 Revenue: \$1,409,954
FY 2015 Budget: \$1,350,000
FY 2015 Full Year Estimate: \$1,350,000

Business License Tax

Business license tax, which is generally calculated upon a business' gross receipts, is expected to come in even with last year's collections, and \$15,000 (0.5%) ahead of budgetary estimates. This revenue showed resilience against the troubled economy, and has remained level or had slight increases year over year. Analysis of previous years showed this revenue is somewhat inelastic to the ebbs and flow of the economy. Despite modest declines and increases in businesses' total gross receipts, business license tax has remained steady, likely due to the fact that 71 businesses pay the maximum gross receipts business license, and changes in their gross receipts are unlikely to impact their total license tax.

FY 2012 Revenue: \$3,018,177
FY 2013 Revenue: \$3,122,503
FY 2014 Revenue: \$3,140,273
FY 2015 Budget: \$3,125,000
FY 2014 Full Year Estimate: \$3,140,000

Interest Income

The City invests its idle cash in a number of instruments ranging from the state-run Local Agency Investment Fund and corporate debt, to U.S. Treasury notes, Governmental Agencies and Certificates of Deposit. During the last recession and associated economic problems, interest rates declined dramatically and have remained at very low levels. As a result, the City's maturing investments are being reinvested at the current low rates. However, the portfolio was recently yielding 0.904%, up from .867% one year ago.

FY 2012 Revenue: \$564,116
FY 2013 Revenue: \$578,873
FY 2014 Revenue: \$546,077
FY 2015 Budget: \$486,600
FY 2015 Full Year Estimate: \$566,000

Other General Fund Revenues

In addition to the General Fund, there are several other revenues that are worth mentioning:

Parking Citations

While a General Fund revenue source, a portion of the revenue from Parking Citations (\$4 of all citations except expired meters) goes to the CIP Fund, with the remainder going to the General Fund. The CIP fund utilizes the moneys to pay debt service on the Police/Fire facility and to fund other general CIP projects.

As discussed during the recent presentation of the FY 2013-2014 financial audit, the

installation of new technology parking meters that accept credit cards has resulted in higher parking meter revenue as drivers opt to feed more money in the meters as insurance against an expired meter citation. Parking meter revenue in FY 2013-2014 across all funds rose 9.8% (\$369,136) compared to the prior year. The FY 2013-2014 results include increased revenue derived from the installation of 750 new technology replacement meters during the year. Overall, as the new (replacement) meters have been installed, the City has realized a 30% increase (approximately \$950,000) in meter revenues since FY 2010-2011. These are non-General Fund revenues; they are deposited in the Parking, State Pier and Parking, or the County Parking Lot funds.

Parking citation data indicates that since the phased installation of the new technology meters began in FY 2009-2010, expired meter citations have decreased by 30%, from roughly 35,000 citations in FY 2010-2011 to 22,900 in FY 2013-2014. While this has equated to an estimated reduction in parking citation revenue of \$430,400 to the General Fund, the corresponding increase in Parking Meter revenue (\$950,000) has more than offset that reduction. While the increased revenue may be attributable to other factors such as an improving economy, staff believes that the bulk of the increase is directly related to the new meters. Additionally, this increase is consistent with other cities' experience with the new technology meters.

Parking citation revenue to the General Fund for FY 2014-2015 appears to be on target to reach the budgeted amount of \$2,340,000. This exceeds FY 2013-2014 revenue of \$2,221,517 by \$118,483 or 5.3%.

Marriott Hotel Percentage Rent

In addition to the minimum rent payment per the ground lease, Marriott pays the City an additional 6% of room sales and 3% of food and beverage. Revenue for fiscal year 2015 is expected to increase \$50,673 or 5.4% above the prior year and \$75,000 or 8.2% above the budget amount to \$995,000.

General Fund Expenditures

Half way through the year the City has expended and encumbered \$30.6 million or 50.2% of the total adjusted budget allocation.

A review of the expenditure categories indicates that Salary & Wages are trending over budget, by 1.4% or \$408,393, primarily due to overtime incurred in the Fire Department for Sworn Employees and Mutual Aid agreements, the latter of which is offset by reimbursements from the requesting agencies. The Fire Department overtime is trending higher due to injuries on duty this year that have exceeded expectations. Overtime costs are incurred when there are vacancies (vacations, sickness, injuries, training, etc.) that must be filled by other existing fire personnel in order to operate at the minimum level of staffing needed.

Within the Salary and Wages category, sworn salaries (Police and Fire) are trending over budget for the full year by 0.3% (\$31,658) due to near-full staffing levels, coupled with a 4% vacancy factor included in the budget.

Employee Benefits are estimated at 2.6% or \$295,466 under budget for the full year. This trend can be attributed mostly to Group Medical Insurance trending \$279,066 (8.8%) under budget due to vacancies as well as medical premium increases rising at a slower pace than budgeted.

Property and Equipment will not be fully expended by year end, and is expected to come in under budget by \$596,200. Much of these costs are related to Information Systems Master Plan projects which are not expected to be completed by year end (Finance systems upgrades, Document Management system improvements, etc.). Any remaining unspent budgets for these projects will be re-budgeted for completion in FY 2015-2016.

Overall, General Fund expenditures are trending 1.5% or \$930,837 under budget.

Other Funds

Other City fund revenues and expenditures have been reviewed and, with one exception, the Insurance Reserve Fund, the other funds are trending at appropriate levels at mid-year given historical spending trends and identified spending patterns.

Through December 2014, the Insurance Reserve Fund is 94.8% expended. This fund includes Liability and Workers Compensation claims. Liability claims (\$850,000) have exceeded the full year budget (\$482,000) by 75% at mid-year due to unanticipated claims activity. Similarly, Workers Compensation claims paid is 85% expended (\$2.1 million on a budget of \$2.47 million through December 2014). Both Liability and Workers Compensation activity are difficult to predict. For example, open Workers Compensation cases from several years prior can be revalued (and reserved on) based on new information and/or continued treatment for the injury, causing unexpected expenditures in the current year. The City has four such cases in the current year that could not be anticipated at time of budgeting.

As a result of this pattern, staff is recommending that the City Council appropriate an additional \$1,050,000 in the FY 2014-2015 Insurance Reserve Fund. This additional allocation is necessary in order to have sufficient authorized funds for the remainder of the fiscal year's claims activity. These required funds are available in the Insurance Reserve Fund. It is also important to note that these added costs will be recovered through increased allocations to the appropriate departments in the FY 2015-2016 budget, which will impact General Fund expenditures.

While much of the costs incurred in Workers Compensation are mandated by State law, the City continues to look for ways to control costs. Staff promotes the return to work program in an effort to get injured employees back to work as soon as possible, thus reducing costs. Additionally, staff is planning to go out to bid for the services of the Third Party Administrator who oversees the claims activity and is key to the cost control chain. Finally, implementing additional employee safety and educational programs and trainings, such as MB Fit, may serve to improve our injury experiences. We will continue to seek new ways to help employees seek proper treatment and return to work in a timely manner. Citywide expenditures for all other funds are trending appropriately. The Street Lighting and Landscape Fund continues to run at a deficit requiring an annual cash infusion from the General Fund since the assessments are insufficient to cover costs. There is no fund

balance to draw upon, and the General Fund contribution, which goes towards sustaining continued operations, is necessary until a Proposition 218 assessment vote is successful in raising the assessment rates and revenues.

Budget Adjustments

Aside from the Insurance Reserve Fund adjustment described above, staff recommends one additional budget adjustment with this mid-year report:

On November 5, 2014, City Council approved a contract with Tyler Technologies for a new cashiering system module. Funds totaling \$60,000 were budgeted for this project in the General Fund. This amount was intended to also be allocated to the Water, Refuse, and Parking enterprise funds according to the percentage of benefits each fund will see as a result of the new cashiering module. Hence, a budget adjustment is requested to allocate \$30,000 of the \$60,000 currently budgeted in the General Fund to result in the following revised budgets:

General Fund	\$30,000
Water Fund	\$18,000
Refuse Fund	\$6,000
Parking Fund	<u>\$6,000</u>
	\$60,000

If this recommended adjustment is approved, the amounts for the enterprise funds will be appropriated from available existing fund balances. The net result will be \$30,000 less in General Fund expenditures and increased expenses to the various funds listed above.

BUDGET CONCLUSION:

Mid-Year results for the General Fund are positive, and a sign of continued improvement in the economy. Revenues are expected to outpace budget by \$1,345,866 while expenditures are expected to come in \$930,837 under budget. Irrespective of budget, revenues are expected to exceed expenditures at year end by \$587,619. This can be attributed to the increases in property tax, hotel bed tax (TOT) and Real Estate Transfer Taxes, and savings in Employee Benefits and Contract & Professional Services, with the continual focus of streamlining costs while maintaining the levels of service provided to the community. Additionally, steps taken last year to reduce debt service will continue to have a beneficial impact in the years to come.

With the budgeting process for fiscal year 2015-2016 underway, staff is focused on the challenges ahead, including the cost of funding employee pensions. The CalPERS board has voted in recent years to lower the assumed rate of return on investments, changed amortization periods for unfunded liabilities, and made demographic changes, most notably in mortality. These changes have or will result in significant increases in the City's unfunded liabilities, and higher employer contribution rates. As requested by the City Council, staff will prepare and present an analysis of options for addressing the City's unfunded pension liabilities.

Also worth noting (and which the City Council is considering options) are General Fund

subsidies of other fund's activities, which divert funds from Police, Fire and other general governmental services. Both the Storm Water and Street Lighting & Landscape District funds have no fund balance and operate at a deficit. Further, over the next five years, General Fund subsidies of these funds are projected to total approximately \$7 million (including unreimbursed support costs incurred in the General Fund). For example, the Street Lighting and Landscaping Fund currently has no fund balance and assessments are inadequate to fund operations or provide for future capital needs. As a result, the General Fund subsidizes this fund every year, budgeted at \$251,534 for this fiscal year. The General Fund is also providing uncompensated services to the Storm Water Fund, recently estimated at \$161,191 per year. This fund is encountering higher operating costs due to legislative action to clean storm water runoff and limits, which reduces funds for highly needed capital improvement projects. While these issues require a Proposition 218 vote, it is most appropriate that the General Fund no longer support these ancillary services.

As the fiscal year 2015-2016 budget process proceeds an emphasis has been placed on civic engagement and outreach with the community. The City's first-ever Community Budget Priorities Meeting will be held March 5th to receive feedback from residents to consider while developing the Proposed Budget (a second meeting may be scheduled as well). Additionally, a community survey is being conducted which will provide insight into our residents' perceptions and priorities. Also, there will be other opportunities for public input, including City Council meetings and budget study sessions, in which Council will review each department's budget. We look forward to preparing the FY 2015-2016 budget in an interactive style.

The next budget status report will occur in May 2015 for the 3rd quarter results.

Information Technology Director

At the City Council's request, staff is bringing forward information on the IT Director position which was discussed and approved by the City Council in October 2014, but for which recruitment was subsequently postponed by the City Manager pending further analysis.

The City's most recent Information Systems Master Plan (2013), which was prepared by NexLevel Information Technology, recommended the creation of a standalone IT department (with its own Director) "in recognition of the prominent emphasis placed on technology, both in terms of financial investment and service provided to the public and internal customers" (please see Attachment #2 for excerpts from the Information Systems Master Plan).

As proposed, the IT Director position will direct, plan and oversee the City's Information Technology Department including but not limited to the formation and implementation of an overall information system strategy, alignment of information technology resources to support citywide business processes and strategic direction as well as the use of technology to enhance community engagement, track and measure customer service requests, leverage open data initiatives, and explore opportunities to digitize the city services upon a foundation of transparency and access.

Information technology is an essential part of any local government, from website, to GIS, to financial accounting, public works, and permitting, nearly every aspect of an organization's

operations depends on its information technology resources. The value of adding this position to the organization will be felt internally as well as externally, and will assist the City with strategically planning its future technology needs and resource allocations to meet those needs.

Under the existing structure, the City's Information Systems group is a division in the Finance Department. As such, the work group is heading by a mid-level manager (IS Manager). The IS Manager has six direct reports including two Network Administrators, three Information Systems Specialists, and one Geographic Information Systems Analyst (who has one technician reporting to her). The division has limited administrative support, typically provided by one of the IS Specialists.

Given this structure, much of the IS Manager's attention is focused on daily operations (network security, connectivity, website, help desk call management, etc.). Long range planning and visioning as well as direct involvement in large citywide ISMP projects competes with these daily duties. As a result, progress on projects is hampered by this structure.

In short, without senior executive leadership in IT, significant and timely progress on the critical initiatives noted below will be accomplished as capacity provides for it. As such, ISMP projects are progressing, but not at an ideal pace. Had the IT Director position been in place, with the ability to drive projects, the senior executive authority to network across departments/disciplines and the direct reporting relationship to the city manager, significant progress/completion would have been made on the following enhancements, many of which touch and benefit our community and the general public:

- Public Safety (ensuring public safety IT enhancements are proactively being pursued, researched and effectively administered)
- Document Management (ability for the public to view records)
- Public Records Act Software (improved service delivery through automated tracking of public records requests)
- Peak Democracy (online civic engagement medium with proven enhancements public participation)
- Social Media (better footing to both engage and keep the public informed in an age of instant communications)
- Human Resources Systems (job recruiting, applicant tracking, on-line job applications, employee skills and training records)
- Wide Area Network Expansion (access to City network from remote locations allowing electronic workflow for improved efficiency)
- Security Encryption (enhanced data privacy)

-Financial System Upgrades (improved asset tracking, inventory control, cashiering, etc.)

-Telephone System (utilize efficient technologies for better communications and cost savings)

-Webpage Overhaul (making our data more readily available to the public in an intuitive, user-friendly portal format)

-Open Data (leveraging open data initiatives to foster greater transparency and reduce the city expense and public wait time associated with public record request)

The addition of the Director would also improve service levels by allowing the manager level position to renew focus on service delivery, streamlining and further automating workflow within the organization.

In an effort to facilitate City Council discussion of the need for the IT department and Director position, Terry Hackelman, president of NexLevel Information Technology, will be present at the City Council meeting to answer questions.

Attachment:

1. Fiscal Year 2014-2015 General Fund Budget Projections
2. NexLevel Manhattan Beach Assessment and Master Plan Excerpts

ATTACHMENT 1

Table 1. Fiscal Year 2014-2015 General Fund Budget Projections

General Fund	Revenues	Expenditures*	Surplus
Adopted Budget	\$59,846,949	\$60,701,205	(\$854,256)
Adjusted Budget	59,846,949	61,536,033	(1,689,084)
Full Year Estimate	\$61,192,815	\$60,605,196	\$587,619

*Includes one-time capital equipment purchases

Table 2. Fiscal Year 2014-2015 General Fund Revenues

General Fund Revenues	2014 Actuals	FY 2015		FY 2015 Full Year Estimate			
		Adj Budget*	Full Year Est	From 2015 Budget		From 2014 Actuals	
Key Revenues							
Property Tax	\$23,353,738	\$23,911,150	\$24,277,761	\$366,611	1.5%	\$924,023	4.0%
Sales & Use Tax	9,135,808	9,112,873	8,817,775	(295,098)	(3.2%)	(318,033)	(3.5%)
Transient Occupancy Tax	3,565,093	3,669,000	3,942,914	273,914	7.5%	377,821	10.6%
Business License Tax	3,140,274	3,125,000	3,140,000	15,000	0.5%	(274)	(0.0%)
Building Permits	1,031,412	1,160,000	1,200,000	40,000	3.4%	168,588	16.3%
Building Plan Check Fees	1,409,954	1,350,000	1,350,000	-	-	(59,954)	(4.3%)
Interest Earnings	546,078	486,600	566,000	79,400	16.3%	19,922	3.6%
Real Estate Transfer Tax	642,718	595,000	750,000	155,000	26.1%	107,282	16.7%
Subtotal Key Revenues	\$42,825,075	\$43,409,623	\$44,044,450	\$634,827	1.5%	\$1,219,375	2.8%
Other Revenues by Category							
Other Taxes & Assessments	\$1,897,011	\$1,854,785	\$1,904,221	\$49,436	2.7%	\$7,210	0.4%
Revenue from Permits	698,697	750,705	918,870	168,165	22.4%	220,173	31.5%
Fines	2,437,699	2,552,500	2,562,000	9,500	0.4%	124,301	5.1%
Use of Property & Money	2,845,908	2,516,645	2,591,909	75,264	3.0%	(253,999)	(8.9%)
Other Governments	477,389	260,130	471,672	211,542	81.3%	(5,717)	(1.2%)
Service Charges & Transfers	8,042,378	7,810,761	7,892,524	81,763	1.0%	(149,854)	(1.9%)
Miscellaneous	521,465	691,800	807,170	115,370	16.7%	285,705	54.8%
Subtotal Other Revenues	\$16,920,547	\$16,437,326	\$17,148,366	\$711,040	4.3%	\$227,819	1.3%
Total General Fund Revenues	\$59,745,622	\$59,846,949	\$61,192,815	\$1,345,866	2.2%	\$1,447,193	2.4%

Positive Variance indicates above budget; negative variance indicates below budget.

* The General Fund Adjusted budget includes the adopted budget plus adjustments for grants and General Fund reimbursements.

ATTACHMENT 1

Table 3. Fiscal Year 2014-2015 General Fund Expenditures

General Fund Expenditures	Adjusted Budget (a)	Projected Year End	Variance Under/(Over)	%
Salary & Wages	\$28,851,380	\$29,259,773	(\$408,393)	(1.4%)
Employee Benefits	11,490,495	\$11,195,029	295,466	2.6%
Contract & Professional Services	8,081,430	\$7,852,189	229,240	2.8%
Materials & Services	2,688,099	\$2,723,603	(35,504)	(1.3%)
Utilities	1,199,702	\$1,130,764	68,938	5.7%
Internal Service Charges	6,789,551	\$6,888,353	(98,802)	(1.5%)
Property & Equipment	1,056,333	\$460,133	596,200	56.4%
Bond Debt	1,357,904	\$1,074,212	283,692	20.9%
Transfers Out	21,140	\$21,140	-	-
Tota General Fund Expenditures	\$61,536,033	\$60,605,196	\$930,837	1.5%

(a) The Adjusted Budget includes City Council-approved amendments during the current year as well as encumbrances carried forward from the prior year which are added to the budgeted expenditures in the new fiscal year.

General Fund Revenue & Expenditure Summary

(Adjusted for Estimated Impact of Labor Negotiations)

Total Projected Revenues \$61,192,815

Total Projected Expenditures 60,605,196

Projected Surplus \$587,619

record the event. The IS Manager utilizes overtime or flex scheduling for this, thus increasing costs or reducing availability for IS support during regular business hours. Duties such as these are typically managed through a Public Information Officer or similar position in the City Manager's Office.

These challenges will continue to affect the timeliness and quality of technology support services provided to City departments.

Recommendations

The following recommendations are provided based on NexLevel's experience with other agencies, best practices, and our observations during interviews with City personnel. We believe that implementation of these recommendations will improve the level of support provided by the IS Division.

- ◆ The City currently is structured such that the IS function is a Division of the Finance Department. However, based on the City's expanding demands for technology at all levels of the organization, and the reliance and importance on that technology in maintaining and enhancing operations, the City should consider establishing the IS function as a standalone department. Elevating the function to department status would likely result in improved alignment of the technology needs with the City's priorities, including maintaining secure and reliable technology infrastructure. Further, just as Human Resources and Finance provide internal services, the IS Division's services are utilized by virtually all employees and are an important support system to daily operations. If not acted upon in the short term, NexLevel anticipates that in the long term, it will be necessary for the City's technology service organization to have representation at a department level, as this organizational structure will eventually be the industry norm.
- ◆ Reassign video broadcast and recording services from the IS Division network administrators to another City department to allow IS Division staff to focus on technology support. The IS Division's performance of these functions is unusual when compared to other peer municipalities and pulls focus away from the maintenance and support of the City's technology infrastructure and new projects. The City might want to explore options such as hiring students pursuing careers in the film industry to assume these duties.
- ◆ Reassign the approval process for content changes to the web site. Typically this function is not performed by a City's technology resources. More commonly, it is considered a part of the duties of a Public Information Officer (PIO) or a representative in the City Manager's office, or these duties are the direct responsibility of each City department requesting the web site content change. The time spent by the City's IS Division staff supporting this function detracts from their core functions of maintenance and support of the City's technology infrastructure and new projects. The City should reassign web page change approvals to another department to allow the IS Division to focus on technical support.
- ◆ Increase the total number of hours the IS Division staff is available by restructuring how the IS Division is staffed. This could include merging part time positions into full time positions. The use of part time positions presents a challenge because technology professionals typically seek full time employment, resulting in the City losing experience and expertise when a part time staff member resigns, and difficulty finding qualified candidates when positions are vacant.
- ◆ Assign a full time IS Division member to public safety (Fire and Police Departments), as it requires dedicated support.
- ◆ Identify and procure the services of experienced technology providers (private sector) to assist the IS Division in reducing the current service request backlog. The task assignments should be specific to allow the temporary contractors to work effectively without continuous

overall technology governance would benefit from a more formal steering committee structure with active participation from department directors on a regular basis. NexLevel provides the following recommendations:

- ❖ Reorganize IS Division staffing to provide a higher level of customer service. Consider consolidating multiple part time positions into one or more full time positions to reduce continual loss of part time staff. Evaluate current reporting relationships within the IS Division and consider alternatives to the current reporting relationships, including the creation of a stand-alone IS Department.
- ❖ Augment IS Division staffing with outside contractors for major project implementations and projects.
- ❖ Reassign non IS-related duties to other City departments.
- ❖ Establish a Technology Steering Committee with top management representatives from each department.
- ❖ Implement a project management framework including tools, templates, and processes to guide staff functioning as project managers.
- ❖ Establish service level agreements, particularly for IS support of public safety after-hours needs.

4.2.2 Service Delivery

The City's technology service delivery is meeting most department needs. However, as with virtually any technology environment, opportunities for improvement exist. As such, NexLevel provides the following recommendations:

- ❖ Establish a training policy, and if feasible, set up an internal training room.
- ❖ Implement a periodic analysis of help desk calls to ensure user concerns are being resolved in a timely and efficient manner.
- ❖ Establish formal procedures for after-hours IS support.
- ❖ Create an IS Division service catalog that clearly identifies the technology services and associated performance levels to better manage user expectations.

Note that the implementation of a formal governance structure will also help improve service delivery as it will help quickly identify and ensure focus on timely resolution of service delivery issues.

4.2.3 Business Technology

The effective selection, implementation, and management of department software applications is critical toward attaining a high-level of staff productivity, cost-effective service delivery, efficient business processes, and a return on the City's technology investment. The sum of the City's applications is called the Application Portfolio.

The City's Application Portfolio supporting the City's business and operational functions are providing the features and functionality consistent with similar size municipalities. However, it should be noted that some software applications are nearing the end of their useful life. In addition, there are several business and operational functions that are currently not leveraging applications or are relying on internally developed software that does not provide the functionality that is needed.

- ❖ Protects and secures the City's technology infrastructure and/or data
- ❖ Increases productivity
- ❖ Enables greater workforce mobility
- ❖ Promotes ease in training new staff and support succession planning

The City currently has standardized the desktop and network environment. While standards may define or limit the tools, vendors, and software that is implemented, the tradeoffs are generally well worth it. Standards should be established, monitored and enforced by the City's technology governance structure.

General equipment standards include desktops, mobile devices (i.e. PDAs, Smartphones, Tablets, etc.), network equipment, data center servers, and printers. In addition, standards should be set for desktop software environment (i.e. versions of Office, Adobe, etc.) and database software (i.e. SQL, Oracle, etc.).

5.1.5 Organization

Effective leverage and organization of the City's technology resources is critical to the successful implementation of the IS Master Plan and in ensuring cost-effective ongoing support. Currently, the City's IS Division lacks adequate resources to provide its customers with the level of service expected by the organization. Staffing consists of several part time individuals without technology-related education or experience. This structure contributes to limiting the Division's ability to respond to and resolve technology issues, and also requires additional time and effort to mentor untrained staff.

In addition, the organization is not placing an appropriate level of focus on technology issues. Lack of a formal technology governance structure is resulting in constantly changing priorities and a lack of strategic technology direction.

The IS Assessment included the following recommendations that would improve the City's ability to support current and future technology.

- ❖ Increase the number of hours the IS Division staff is available by restructuring how the IS Division is staffed
- ❖ Assign a full time IS Division staff member to support public safety
- ❖ Procure services from experienced technology providers (private sector) to assist the IS Division in reducing the current service request backlog
- ❖ Implement a formal training plan and budget for IS Division staff training
- ❖ Re-focus IS Division staff meetings to place the highest priority on critical IS support issues
- ❖ Establish a formal Technology Steering Committee to oversee the City's technology strategic direction
- ❖ Consider creating a stand-alone IS Department in recognition of the prominent emphasis placed on technology, both in terms of financial investment and service provided to the public and internal customers

5.2 Projects

The technology planning process culminated in the identification and prioritization of technology projects that will help ensure the City's technology environment supports current and anticipated business needs. These projects span across all departments and will improve services, operations, and/or

Agenda Date: 2/17/2015

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Tony Olmos, Director Public Works

Joe Parco, City Engineer

Karen Domerchie, Public Works Senior Management Analyst

SUBJECT:

Presentation of the Proposed Fiscal Year 2015-2016 to Fiscal Year 2019-2020 Five Year Capital Improvement Plan (Public Works Director Olmos).

RECEIVE REPORT

RECOMMENDATION:

Staff recommends that the City Council receive the Proposed Fiscal Year 2015-2016 to Fiscal Year 2019-2020 Five Year Capital Improvement Plan (CIP).

FISCAL IMPLICATIONS:

Depending on City Council feedback, resources from transportation, water, sewer, stormwater, parking, and general funds may be impacted. The five-year 2016-2020 CIP includes 82 projects totaling \$108,267,710 from a variety of funding sources. There are \$42,938,326 in carryover funds and proposed new funds of \$10,149,084 for FY 2015-2016 from a number of funding sources.

While the total funding (carryover funds and new funds) represents a significant investment in the City's infrastructure, it is important to note that the wastewater (sewer) system projects (\$17,658,505), water system projects (\$33,780,812), and Sepulveda Bridge Widening Project (\$20,642,126) are a combined total \$72,081,443. Therefore, the wastewater projects, water projects, and Sepulveda Bridge Widening Project together make up approximately 67 % of the overall (carryover funds and new funds) five-year Capital Improvement Plan (\$108,267,710).

BACKGROUND:

City Council

The Capital Improvement Plan is a tool to assist the City Council to make capital project decisions. Most capital projects are long-term design-construction projects, and may require funding beyond one fiscal year. This is why a five year plan is proposed to the City Council each year, so that long-term planning may be considered. The document is dynamic and may change as the City's priorities and needs change. The Capital Improvement Plan allows for multiyear systematic scheduling of local physical improvements based on sound planning, public demand for improvements, and the City's ability to fund the improvements.

Annually, the City Council considers and approves projects to be funded in the upcoming fiscal year. In addition, projects for the subsequent four years are listed, but funding is not approved until the appropriate fiscal year. However, review of subsequent year projects allows for the planning and budgeting of the improvements, communicates City Council intent, and assists in organization of capital and maintenance projects in future CIP work.

Planning Commission

On April 22, 2015, the Planning Commission will review the proposed Fiscal Year 2016-2020 CIP.

Parking and Public Improvements Commission (PPIC)

On April 23, 2015, the Parking and Public Improvements Commission (PPIC) will review the proposed Fiscal Year 2016-2020 CIP. The PPIC's role in the CIP is to provide comments for City Council's consideration.

DISCUSSION:

The proposed five-year CIP includes 82 projects (54 carryover projects, 17 new projects, and 11 future projects) that have varied costs, public interest, and impacts that are listed on the attached Projects by Type spreadsheet (Attachment No. 1). Projects involve carryover funding for various reasons including planning and funding for larger, long-term projects, multiple phase projects, grant programming of fund expenditures, coordination with other CIPs, and outside agency review/approval. Staff will present an overview of the projects considered for the CIP and will be prepared to answer questions from City Council or members of the public.

Projects in the City's Capital Improvement Plan are typically presented in two formats; projects are organized by project type and projects are organized by fund source. There are overarching considerations in each of the funding areas (Wastewater, Water, Stormwater, Streets/Transportation, Facilities, and Parking) that require discussion and direction. The Projects by Type spreadsheet is an excerpted section of the proposed Capital Improvement Plan and may be used for project reference during the presentation and is listed as Attachment No. 1.

Overview of FY 2016-2020 Capital Improvement Plan Funding Sources

Water and Wastewater Funds

The Water and Wastewater Funds are used for repairs and improvements to the City's water and wastewater infrastructure. Proposed water and sewer projects were identified through Utility Master Plans completed in 2010. These plans indicated significant investment is required to assure the long-term dependability of the water and sewer systems.

Stormwater Funds

The Stormwater Funds are used for repairs and improvements to the City's storm drain system. The City's General Fund will subsidize the Stormwater Fund in FY15-16 due to a lack of revenue. With the new NPDES permit, the city's responsibility to create or improve solutions for storm drain pollution prevention is greatly increasing.

Capital Improvement Fund

Capital Improvement Funds are generated from General Funds and are distinguished from other funds as being more discretionary and not restricted to certain uses such as Water Funds or funds reserved in various dedicated fund types.

Gas Tax Fund and Measure R (Local Return Fund)

The City funds street improvement projects with the dollars it receives from various sources including State and County Gas Tax Funds. These funds are restricted and may only be used for street-related improvements. Annual street improvements typically include the Slurry Seal Program, the Concrete Curb, Gutter and Ramp program and arterial and collector pavement rehabilitation projects.

Beginning in 2009, the City began receiving Measure R Local Return funding. The funding is available, on a per capita basis, through a Los Angeles County measure passed by voters in 2008. Funds may be used for street and transit purposes.

Parking Funds

The Parking Funds are used for repairs and improvements to the City's parking lots and meters. Funding is obtained through the city's parking meter program.

Overview of the FY2016-2020 Capital Improvement Plan

The following summary addresses each "type" of project. Attachment 1, the Projects by Type Spreadsheet, provides a five-year plan with project titles and individual costs of each project.

Wastewater Projects

The five-year CIP includes eleven (11) Wastewater projects (4 carryover, 1 new, and 6 future projects), with \$2,183,505 in carryover funds and \$625,000 in requested funding for FY2015-2016.

- Scheduled projects previously budgeted have either been constructed or are in the process of design or pending construction; previously budgeted projects focused on sewer main spot repairs, sewer main replacements, and sewer manhole repairs/replacements.
- Scheduled new projects will focus on continuation of sewer main repairs/replacements.

Water Projects

The five-year CIP includes fifteen (14) Water projects (9 carryover, 1 new, and 4 future projects), with \$6,414,983 in carryover funds and \$365,829 in requested funding for FY2015-2016.

- Scheduled projects previously budgeted have either been constructed or are in the process of design or pending construction, previously budgeted projects focused on water main replacements and booster pump station replacement/upgrade.

Stormwater Projects

The five-year CIP includes two (2) Stormwater projects (1 carryover and 1 new), with \$440,000 in carryover funds and \$712,700 in requested funding for FY2015-2016.

- The current stormwater fee (from the Utility Service Charge) only funds a portion of operational costs. Current allocations are not sufficient to fund needed infrastructure replacements and are not expected to meet the future needs of the system improvements based on the NPDES permit requirements.

Streets/Transportation

The five-year CIP includes thirty (30) Streets/Transportation projects (25 carryover, 4 new, and 1 future project), with \$29,232,527 in carryover funds (including \$19,642,126 for the Sepulveda Bridge project) and \$4,830,000 in requested funding for FY2015-2016.

- Scheduled projects are categorized as Capacity Enhancements, Pedestrian and Safety Improvements, and Street Repairs/Rehabilitation.
- Grant and one-time funded projects that are currently scheduled are primarily capacity related (Sepulveda Bridge, traffic signal intersection improvements) or pedestrian improvements.
- Annually funded projects include multiple funding sources. These funds are restricted to certain uses and represent reliable sources of revenue. These funds are dedicated to annual slurry seal projects, annual concrete repair projects, and street resurfacing projects.

Facilities (CIP Fund and Special Revenues Fund)

The five-year CIP includes twenty-two (22) Facilities projects (12 carryover and 10 new projects), with \$4,024,399 in carryover funds and \$3,415,555 in requested funding for FY2015-2016. Seventeen of the twenty-two facility projects are funded from the CIP fund; the remaining five projects are funded from special revenue sources such as the State Pier Fund, other enterprise funds, or private contributions.

- Previously approved and proposed projects are consistent with the 2013 Facilities Assessment Study. The CIP is based on a 10-year expenditure forecast for the combined facilities with a total anticipated combined expenditure over the study period of \$10,500,000 and an average annual expenditure of \$1,000,000.
- Proposed new projects include the Park Master Plan; Fiber-optic Connectivity for the Tennis Office at Joslyn Center; Two New Workstations and a Front Counter Modification in the Community Development Office; Reconfiguration and Improvements at the Human Resources Office; Replacement of the Field Netting at Dorsey Field, Live Oak Park and Manhattan Heights Park; Replacement of Light Fixtures at Manhattan Village Field; Installation of a New Fitness Station and

Surfacing at Mariposa Fitness Station; Beg Field Installation of Synthetic Turf and Light Fixture Replacement and Engineering Division Space Planning Study.

Parking Projects

The five-year CIP includes three (3) Parking projects (3 carryover and no new projects), with \$642,912 in carryover funds and \$200,000 in requested funding for FY2015-2016.

- Scheduled projects are consistent with the 2013 Parking Structures Assessment study. The CIP is based on a 10-year expenditure forecast with a total anticipated combined expenditure over the study period of \$2,100,000.
- Identified parking structures work has been prioritized based on deficiencies found during the 2013 assessment. Scheduled FY2015-2016 projects are consistent with study Priority 1 category that includes Life/Safety improvements.

Unfunded Projects

Capital funding constraints limit how many projects the City can fund. There are needs in excess of those projects included in the proposed CIP. Included at the end of this Plan is a list of unfunded projects that would be included in the CIP if sufficient funding were available. As funding becomes available, additional projects proposed can be prioritized by the City Council for funding.

Tentative FY 2016-2020 Capital Improvement Plan Schedule

The following tentative schedule reviews the actions which will need to occur and suggests a general schedule so that the effective date of funding appropriations are realigned with the approval of the City Operating Budget.

- February 17, 2015: CIP City Council Review
- March 19, 2015: Proposed CIP Public Meeting
- April 7, 2015: CIP City Council Review
- April 22, 2015: Planning Commission Adoption
- April 23, 2015: Parking and Public Improvements Commission Review
- May 19, 2015: City Council Study Session (If Requested)
- June 16, 2015: Consideration of CIP Adoption (FY 2015-2016 Budget Public Hearing and Adoption scheduled for June 16, 2015 City Council Meeting)
- July 1, 2015: Adopted FY 2015-2016 CIP Effective Date

CONCLUSION:

The CIP presentation provides an opportunity to discuss and provide direction on policy issues regarding funding levels, revenue generation, and the impacts on all City facilities and infrastructure, in addition to selecting projects for the next CIP cycle under consideration. The CIP projects which require funding in FY 2015-2016 are of particular importance since the City Council may be considering appropriating funds for this fiscal year at the June 16, 2015 City Council Meeting (meeting date subject to change per City Manager or City Council direction). Staffs from the departments who have responsibility in the provisions of the service or facility are available to answer questions from the City Council or the public.

Attachments:

1. FY 2016-2020 Proposed Projects by Type Spreadsheet (Excerpt from Capital Improvement Program)
2. February 17, 2015 City Council Meeting Unfunded Projects

City of Manhattan Beach
 FY2016-2020 Capital Improvement Plan by Type

City of Manhattan Beach, Capital Improvement Plan FY2016-2020
 PROJECTS BY TYPE FOR FY2015-16 THRU FY2019-20

BY TYPE

PROJECT TITLE	Carryover Project Number	Carryover Project Original Funding Yr	Status as of 12/12/14	Previously Committed Unspent Funds *	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FIVE YEAR TOTAL (Includes Carryover Project Funds Remaining & New Funds)	FUND SOURCE(S)
SUMMARY ALL PROJECT TYPES											
WASTEWATER PROJECTS				\$ 2,183,505	\$ 625,000	\$ 4,750,000	\$ 5,000,000	\$ 3,150,000	\$ 1,950,000	\$ 17,658,505	See Below
WATER PROJECTS				\$ 6,414,983	\$ 365,829	\$ 11,875,000	\$ 9,425,000	\$ 5,700,000	\$ -	\$ 33,780,812	See Below
STORMWATER PROJECTS				\$ 440,000	\$ 712,700	\$ 712,700	\$ 712,700	\$ 712,700	\$ 712,700	\$ 4,003,500	See Below
STREETS PROJECTS (w/out Sep Bdg)				\$ 9,590,401	\$ 3,830,000	\$ 2,965,000	\$ 925,000	\$ 925,000	\$ 850,000	\$ 19,085,401	See Below
FACILITIES PROJECTS				\$ 1,406,947	\$ 3,415,555	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 8,822,502	See Below
FACILITIES PROJECTS (Special Revenue Funds)				\$ 2,617,452	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,617,452	See Below
PARKING PROJECTS				\$ 642,912	\$ 200,000	\$ 814,500	\$ -	\$ -	\$ -	\$ 1,657,412	See Below
FUNDED PROJECTS BY TYPE SUBTOTAL				\$ 23,296,200	\$ 9,149,084	\$ 22,117,200	\$ 17,062,700	\$ 11,487,700	\$ 4,512,700	\$ 87,625,584	
STREETS (Sepulveda Bridge)				\$ 19,642,126	\$ 1,000,000	\$ -	\$ -	\$ -	\$ -	\$ 20,642,126	
FUNDED PROJECTS BY TYPE TOTAL				\$ 42,938,326	\$ 10,149,084	\$ 22,117,200	\$ 17,062,700	\$ 11,487,700	\$ 4,512,700	\$ 108,267,710	
Types of Funding Sources:											
Capital Improvement Fund: The Capital Improvement Fund is used to account for capital projects not eligible for funding from other specific funding sources. Funding sources are derived from various sources such as grant funds or transfers from the General Fund.											
Gas Tax Fund: The Gas Tax Fund is used to account for the City's share of state and county gasoline tax collection in accordance with the provisions of the State of California Streets and Highway Code. Revenues are disbursed by the State based on population and must be used towards the maintenance and repair of City streets that serve as State and County thoroughfares.											
Measure R Local Return: Measure R is a one-half cent (0.5%) sales tax approved by Los Angeles County voters in November 2008 to meet the transportation needs of Los Angeles County. Local Return - Measure R Local Return funds are provided to cities on a per capita basis. The City began receiving these funds in January 2010 and should receive an estimated \$330,000 per year. The funds can be used for street maintenance, bicycle and pedestrian facilities and transit purposes.											
Measure R South Bay Highway: A portion of Measure R is allocated to 17 regional project group categories. South Bay agencies will receive funding under the subcategory entitled "Interstate 405, I-110, I-105, and SR-91 Ramp and Interchange Improvements (South Bay)". It is estimated that \$906 million will be available to South Bay agencies over 30 years to fund capacity improvements that benefit the state highway system. Eligibility provisions in the measure have been interpreted to include routes parallel to state highways as well.											
Parking Fund: The Parking Fund is used to account for the general operations and maintenance of City parking lots and spaces. Revenues are generated from the use of these properties.											
Prop A & C Funds: The Proposition A and C Funds are used to account for proceeds from the half-cent sales taxes generated by the approval of Propositions A and C by Los Angeles County voters. These funds, which are administered by the Los Angeles County Metropolitan Transportation Authority (MTA), are distributed based on population and must be used for transportation-related projects.											
State Pier & Parking Fund: The State Pier & Parking Lot Fund is used to account for the operation and maintenance of the Manhattan Beach Pier, comfort station, and four adjacent parking lots. These properties are owned by the State, but controlled by the City through an operating agreement.											
Stormwater Fund: The Stormwater Fund is used to account for the maintenance of and improvements to, the City's storm drains. Revenues are derived from a storm drain assessment to property owners, which is based on size and use of the parcel, and collected through the property tax roles.											
TDA Article III: Transportation Development Act. Administered by the MTA, TDA funds can be used for improvements to pedestrian and bicycle facilities.											
Safetee-Lu: Federal transportation legislation entitled "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (Safetee-Lu) that provides funding to agencies for improvements in roads and transportation systems.											
Wastewater Fund: The Wastewater Fund is used to account for the maintenance of and improvements to, the City's sewer system. Revenues are derived from a user charge placed on the water bills.											
Water Fund: The Water Fund is used to account for the operation of the City's water utility system. Revenues are generated from user fees, which are adjusted periodically to meet the costs of administration, operation, maintenance, and capital improvements to the system.											

City of Manhattan Beach
FY2016-2020 Capital Improvement Plan by Type

City of Manhattan Beach, Capital Improvement Plan FY2016-2020 PROJECTS BY TYPE FOR FY2015-16 THRU FY2019-20											BY TYPE
WASTEWATER PROJECTS											
PROJECT TITLE	Carryover Project Number	Carryover Project Original Funding Yr	Status as of 12/12/14	Previously Committed Unspent Funds *	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FIVE YEAR TOTAL (Includes Carryover Project Funds Remaining & New Funds)	FUND SOURCE(S)
WASTEWATER PROJECTS											
1	Utility Radio Telemetry	11838E	FY 2010-11	work in progress	\$ 100,284					\$ 100,284	Wastewater Fund
2	FY11-12 Rehabilitation of Gravity Sewer Mains (Phase 2)	13835E	FY2011-12	design	\$ 1,683,221					\$ 1,683,221	Wastewater Fund
3	Poinsettia Sewage Lift Station Replacement and Force Main Replacement	15843E	FY 2014-15	pre-design	\$ 300,000	\$ 2,900,000				\$ 3,200,000	Wastewater Fund
4	FY14-15 Rehabilitation of Gravity Sewer Mains (Spot Repairs)	15844E	FY 2014-15	pre-design	\$ 100,000					\$ 600,000	Wastewater Fund
5	FY16-17 Rehabilitation of Gravity Sewer Mains					\$ 200,000	\$ 2,500,000			\$ 2,700,000	Wastewater Fund
6	FY17-18 Rehabilitation of Gravity Sewer Mains (area 5, 6, 7)						\$ 100,000	\$ 1,000,000		\$ 1,100,000	Wastewater Fund
7	Pacific Lift Station Upgrade, Emergency Storage, and Force Main Replacement					\$ 250,000	\$ 2,150,000			\$ 2,400,000	Wastewater Fund
8	Voorhees Lift Station Upgrade, Emergency Storage, and Force Main Replacement						\$ 250,000	\$ 1,900,000		\$ 2,150,000	Wastewater Fund
9	Meadows Lift Station Upgrade, Emergency Storage, and Force Main							\$ 250,000	\$ 1,700,000	\$ 1,950,000	Wastewater Fund
10	Palm Lift Station Upgrade, Emergency Storage, and Force Main								\$ 250,000	\$ 250,000	Wastewater Fund
11	FY 15-16 Rehabilitation of Gravity Sewer Mains (Spot Repairs)				\$ 125,000	\$ 1,400,000				\$ 1,525,000	Wastewater Fund
Wastewater Projects TOTAL											\$ 17,658,505

City of Manhattan Beach
FY2016-2020 Capital Improvement Plan by Type

City of Manhattan Beach, Capital Improvement Plan FY2016-2020											BY TYPE
PROJECTS BY TYPE FOR FY2015-16 THRU FY2019-20											
WATER PROJECTS											
PROJECT TITLE	Carryover Project Number	Carryover Project Original Funding Yr	Status as of 12/12/14	Previously Committed Unspent Funds *	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FIVE YEAR TOTAL (Includes Carryover Project Funds Remaining & New Funds)	FUND SOURCE(S)
WATER PROJECTS											
1	Utility Radio Telemetry (Fiber Op Imp)	11834E	FY 2010-11	work in progress	\$ 286,891					\$ 286,891	Water Fund
2	Larsson Street Booster Station Improvement	12828E	FY 2011-12	design	\$ 479,671	\$ 265,829				\$ 745,500	Water Fund
3	Water Main Replacement: Sepulveda Boulevard & 2nd Street (Sep-MBB to 2nd; 2nd-Larsson Booster to 2nd St Booster)	12829E	FY2011-12	construction	\$ 1,159,296					\$ 1,159,296	Water Fund
4	Pipe Replacement Program and Fire Hydrant Installation (Area 2)	13833E	FY 2012-13	design	\$ 1,708,100					\$ 1,708,100	Water Fund
5	Peck Reservoir Booster Pump Variable Frequency Drive	15840E	FY 2014-15	design	\$ 100,000					\$ 100,000	Water Fund
6	Paint Block 35 Elevated Tank	15837E	FY 2014-15	pre-design	\$ 500,000					\$ 500,000	Water Fund
7	Chloramination System at Wells 11 & 15	15838E	FY 2014-15	design	\$ 352,000					\$ 352,000	Water Fund
8	Block 35 Booster Discharge Line Replacement	15839E	FY 2014-15	pre-design	\$ 253,125					\$ 253,125	Water Fund
9	Peck Ground Level Reservoir Replacement	15836E	FY 2014-15	pre-design	\$ 1,500,000	\$ 8,000,000				\$ 9,500,000	Water Fund
10	Herrin/Marine Pipe Installation	15841E	FY 2014-15	pre-design	\$ 75,900					\$ 75,900	Water Fund
11	Pipe Replacement Program and Fire Hydrant Installation (Area 3)				\$ 100,000	\$ 900,000				\$ 1,000,000	Water Fund
12	Pipe Replacement Program and Fire Hydrant Installation (Area 5, 6, 7)						\$ 300,000	\$ 2,000,000		\$ 2,300,000	Water Fund
13	Block 35 Ground Level Reservoir Replacement					\$ 2,100,000	\$ 3,700,000	\$ 3,700,000		\$ 9,500,000	Water Fund
14	Well Collection line From Well 11A to Block 35					\$ 575,000	\$ 5,175,000			\$ 5,750,000	Water Fund
15	Redrill & Equip Well 15					\$ 300,000	\$ 250,000			\$ 550,000	Water Fund
Water Projects TOTAL					\$ 6,414,983	\$ 365,829	\$ 11,875,000	\$ 9,425,000	\$ 5,700,000	\$ -	\$ 33,780,812

City of Manhattan Beach
FY2016-2020 Capital Improvement Plan by Type

City of Manhattan Beach, Capital Improvement Plan FY2016-2020											BY TYPE
PROJECTS BY TYPE FOR FY2015-16 THRU FY2019-120											
STORMWATER PROJECTS											
PROJECT TITLE	Carryover Project Number	Carryover Project Original Funding Yr	Status as of 12/12/14	Previously Committed Unspent Funds *	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FIVE YEAR TOTAL (Includes Carryover Project Funds Remaining & New Funds)	FUND SOURCE(S)
STORMWATER PROJECTS											
1 Storm Drain Projects (spot repairs & sections)	15842E	FY 2014-15	design	\$ 440,000	\$ 502,700	\$ 502,700	\$ 502,700	\$ 502,700	\$ 502,700	\$ 2,953,500	Storm Drain Fund
2 Stormwater Quality Improvement Catch Basin Inserts					\$ 210,000	\$ 210,000	\$ 210,000	\$ 210,000	\$ 210,000	\$ 1,050,000	Storm Drain Fund
Stormwater Projects TOTAL											4,003,500

City of Manhattan Beach
FY2016-2020 Capital Improvement Plan by Type

City of Manhattan Beach, Capital Improvement Plan FY2016-2020												BY TYPE
PROJECTS BY TYPE FOR FY2015-16 THRU FY2019-20												
STREETS / TRANSPORTATION												
PROJECT TITLE	Carryover Project Number	Carryover Project Original Funding Yr	Status as of 12/12/14	Previously Committed Unspent Funds *	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FIVE YEAR TOTAL (Includes Carryover Project Funds Remaining & New Funds)	FUND SOURCE(S)	
CAPACITY ENHANCEMENTS (GRANT FUNDED)												
1	Sepulveda Bridge Widening Prop C Local (merged 08827 & 10827)	10827E	FY 2009-10	design	\$ 2,792,015	\$ 1,000,000				\$ 3,792,015	Proposition C	
2	Sepulveda Bridge Widening (33rd/Valley) *Safetea-Lu Earmark	11830E	FY 2010-11	design	\$ 936,793					\$ 936,793	Safetea-Lu Earmark	
3	Sepulveda Bridge Widening MTA Call	13840E	FY 2012-13	design	\$ 6,813,318					\$ 6,813,318	MTA Call 2009	
4	Sepulveda Bridge Widening Measure R South Bay	13841E	FY 2012-13	design	\$ 9,100,000					\$ 9,100,000	Measure R South Bay	
5	Rosecrans Utility Undergrounding	05820E	FY2004-05	design	\$ 29,773					\$ 29,773	Proposition C	
6	So Rosecrans Utility Undergrounding-Street Work	04824E	FY 2003-04	design	\$ 178,626					\$ 178,626	Proposition C	
7	South Side Rosecrans Ave. Widening	07822E	FY 2006-07	design	\$ 346,396					\$ 346,396	Proposition C	
8	Dual Left-Turn Lanes on Marine Ave at Sepulveda Blvd. WB to SB (Gas Tax & Measure R South Bay Hwy)	12821E	FY 2011-12	design	\$ 519,785					\$ 519,785	Gas Tax Fund	
9	Dual Left-Turn Lanes on MBB at Sepulveda EB to NB, NB to WB, WB to SB (Proposition C & Measure R South Bay Hwy)	09823E	FY 2008-09	RFP	\$ 383,203	\$ 980,000				\$ 1,363,203	Measure R South Bay	
10	Sepulveda Blvd. & 8th St Intersection Improvements (NB & SB from Sep to 8th) (Highway Safety Improvement Program 10% match)	14821E	FY2013-14	design	\$ 247,130					\$ 247,130	10% HSIP Gas Tax Fund	
11	22 Intersection Pedestrian Improvements (Highway Safety Improvement Program 10% match)	14823E	FY2013-14	design	\$ 248,065					\$ 248,065	10% HSIP Gas Tax Fund	
12	Aviation at Artesia, SB to WB Right-Turn Lane (Gas Tax & Measure R South Bay Hwy)			pre-design	\$	\$ 1,500,000				\$ 1,500,000	90% Gas Tax Fund	
	Subtotal (Sepulveda Bridge)				\$ 19,642,126	\$ 1,000,000	\$ -	\$ -	\$ -	\$ 20,642,126		
	Subtotal (Other)				\$ 1,952,978	\$ 2,480,000	\$ -	\$ -	\$ -	\$ 4,432,978		
	Subtotal (Combined)				\$ 21,595,104	\$ 3,480,000	\$ -	\$ -	\$ -	\$ 25,075,104		

City of Manhattan Beach
FY2016-2020 Capital Improvement Plan by Type

City of Manhattan Beach, Capital Improvement Plan FY2016-2020											BY TYPE
PROJECTS BY TYPE FOR FY2015-16 THRU FY2019-20											
STREETS / TRANSPORTATION											
PROJECT TITLE	Carryover Project Number	Carryover Project Original Funding Yr	Status as of 12/12/14	Previously Committed Unspent Funds *	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FIVE YEAR TOTAL (Includes Carryover Project Funds Remaining & New Funds)	FUND SOURCE(S)
PEDESTRIAN AND SAFETY IMPROVEMENTS											
13 Strand Stairs: Design	09825E	FY 2008-09	to be re-bid	\$ 156,902						\$ 156,902	CIP Fund
14 Strand Stairs: Construction	10824E	FY 2009-10	to be re-bid	\$ 1,572,910						\$ 1,572,910	CIP Fund
15 Cycle 3 Safe Routes to School Program	13842E	FY 2012-13	design	\$ 489,938						\$ 489,938	CIP Fund & State Grant Funds
16 Cycle 10 Safe Routes to School Program	13844E	FY 2012-13	design	\$ 497,500						\$ 497,500	10% CIP Fund 90% State Grant Funds
17 12-13 & 13-14 Non-Motorized Transportation Crosswalks, Bike lanes, etc.	13829E	FY 2012-13	pre-design	\$ 209,763						\$ 209,763	CIP Fund
18 Signalized Crosswalk: MBB @ Target Driveway	15826E	FY 2014-15	design	\$ 185,000						\$ 185,000	Measure R Local Return
19 Raised Median Construction: MBB, west of Aviation	15827E	FY 2014-15	design	\$ 150,000						\$ 150,000	Measure R Local Return
20 14-15 - 18-19 Non-Motorized Transportation Crosswalks, Bike Lanes, etc.	15835E	FY 2014-15	pre-design	\$ 94,690	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 594,690	CIP Fund
21 CDBG Access Ramp Construction Project	15834E	FY 2014-15	design	\$ 208,000						\$ 208,000	CIP Fund (CDBG Funds)
22 Investigate & Potentially Install Traffic Device(s) at Highland & 38th St.					\$ 175,000					\$ 175,000	Measure R Local Return
	Subtotal			\$ 3,564,703	\$ 275,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 4,239,703	

City of Manhattan Beach
FY2016-2020 Capital Improvement Plan by Type

City of Manhattan Beach, Capital Improvement Plan FY2016-2020 PROJECTS BY TYPE FOR FY2015-16 THRU FY2019-20											BY TYPE
STREETS / TRANSPORTATION Con'd											
PROJECT TITLE	Carryover Project Number	Carryover Project Original Funding Yr	Status as of 12/12/14	Previously Committed Unspent Funds *	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FIVE YEAR TOTAL (Includes Carryover Project Funds Remaining & New Funds)	FUND SOURCE(S)
CONCRETE REPAIRS											
23	14-15 - 18-19 Annual Curb, Gutter and Ramp Replacement Project (Section 3) (FY14-15 project includes Parkview Avenue)	15821E	FY 2014-15	design	\$ 101,233	\$ 365,000	\$ 365,000	\$ 365,000	\$ 365,000	\$ 1,926,233	Gas Tax Fund
	Subtotal				\$ 101,233	\$ 365,000	\$ 365,000	\$ 365,000	\$ 365,000	\$ 1,926,233	
ASPHALT PAVEMENT PROJECTS											
24	Street Resurfacing Project: Rosecrans Avenue (Sepulveda Blvd to Redondo Ave)	11822E	FY 2010-11	design	\$ 250,000					\$ 250,000	Gas Tax Fund (MTA, STPL)
25	Manhattan Ave./Highland Ave. Improvement Project (1st-8th) (Proposition 1B)	10823E	FY 2009-10	design	\$ 704,236					\$ 704,236	Gas Tax Fund
26	Triennial Pavement Management System Update	14822E	FY 2013-14	in progress	\$ 40,000	\$ 40,000				\$ 80,000	Gas Tax Fund
27	Morningside Drive Rehabilitation (10th Pl to MBB)	15822E	FY 2014-15	design	\$ 75,000					\$ 75,000	Gas Tax Fund
28	FY 14-15 - 18-19 Slurry Seal	15820E	FY 2014-15	design	\$ 487,251					\$ 487,251	Gas Tax Fund
29	Street Resurfacing Project: Blanche, Marine, & 27th	15824E	FY 2014-15	pre-design	\$ 75,000	\$ 300,000				\$ 375,000	Gas Tax Fund
30	Street Resurfacing Project: MBB (Sepulveda to Aviation)	15825E	FY 2014-15	pre-design	\$ 100,000	\$ 900,000				\$ 1,000,000	Gas Tax Fund
31	Street Resurfacing Project: Marine (Sepulveda to Aviation)					\$ 800,000				\$ 800,000	Gas Tax Fund
32	FY15-16 - 19-20 Annual Slurry Seal Program (Thermoplastic)					\$ 385,000	\$ 385,000.00	\$ 385,000.00	\$ 385,000.00	\$ 1,540,000	Gas Tax Fund
33	Street Resurfacing Project: Oak, Redondo, & 11th (STP-L Funds Previously Expended)					\$ 250,000				\$ 250,000	Gas Tax Fund match
	Subtotal				\$ 1,731,487	\$ 2,425,000	\$ 385,000	\$ 385,000	\$ 385,000	\$ 5,946,487	
MISCELLANEOUS STREETS PROJECTS											
34	Downtown Streetscape Improvements: Tile Crosswalk Replacement	13823E	FY 2012-13	bid process	\$ 825,000					\$ 825,000	CIP Fund
35	Downtown Streetscape Improvements: Pavement Rehabilitation & Traffic Striping	13824E	FY 2012-13	bid process	\$ 315,000					\$ 315,000	CIP Fund
36	Downtown Streetscape Improvements: Traffic Signal Pole Replacement (16 poles)	13822E	FY 2012-13	coordinating with County	\$ 1,100,000					\$ 1,100,000	CIP Fund
37	Traffic Signal Preemption Devices					\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 300,000	CIP Fund
	Subtotal				\$ 2,240,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 2,540,000	
	Streets (Sepulveda Bridge)				\$ 19,642,126	\$ 1,000,000	\$ -	\$ -	\$ -	\$ 20,642,126	
	Streets (Other)				\$ 9,590,401	\$ 3,830,000	\$ 925,000	\$ 925,000	\$ 850,000	\$ 19,085,401	
	Streets Projects TOTAL				\$ 29,232,527	\$ 4,830,000	\$ 925,000	\$ 925,000	\$ 850,000	\$ 39,727,527	

City of Manhattan Beach
FY2016-2020 Capital Improvement Plan by Type

City of Manhattan Beach, Capital Improvement Plan FY2016-2020											BY TYPE	
PROJECTS BY TYPE FOR FY2015-16 THRU FY2019-20												
FACILITIES	PROJECT TITLE	Carryover Project Number	Carryover Project Original Funding Yr	Status as of 12/12/14	Previously Committed Unspent Funds *	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FIVE YEAR TOTAL (Includes Carryover Project Funds Remaining & New Funds)	FUND SOURCE(S)
1	Management Services Division Office Remodel	15830E	FY 2014-15	design	\$ 261,947	\$					\$ 261,947	CIP Fund
2	Citywide Sign Program	15832E	FY 2014-15	RFP	\$ 40,000	\$					\$ 40,000	CIP Fund
3	Fire Station 2 Design Development	15829E	FY 2014-15	pre-design	\$ 430,000	\$					\$ 430,000	CIP Fund
4	Fire Station Security Card Installation	15833E	FY 2014-15	pre-design	\$ 40,000	\$					\$ 40,000	CIP Fund
5	Veterans Parkway	15831E	FY 2014-15	RFP	\$ 135,000	\$ 297,825					\$ 432,825	CIP Fund
6	Facility Improvements	15828E	FY 2014-15	RFP	\$ 500,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 5,500,000	CIP Fund
7	Park Master Plan				\$	\$ 100,000					\$ 100,000	CIP Fund
8	Live Oak Fiber Connectivity for Tennis Office via Joslyn Center				\$	\$ 43,500					\$ 43,500	CIP Fund
9	Community Development Office Two (2) New Work Stations and Front Counter Modification				\$	\$ 70,000					\$ 70,000	CIP Fund
10	Reconfiguration & Improvements at HR Offices				\$	\$ 132,000					\$ 132,000	CIP Fund
11	Field Netting at Dorsey, Live Oak and Manhattan Heights				\$	\$ 150,000					\$ 150,000	CIP Fund
12	Replace Light Fixtures at Manhattan Village Field				\$	\$ 100,230					\$ 100,230	CIP Fund
13	Installation of New Fitness Station and Surfacing at Miraposa Fitness Station				\$	\$ 55,000					\$ 55,000	CIP Fund
14	Begg Field Synthetic Turf & Light Fixture Replacement				\$	\$ 1,332,000					\$ 1,332,000	CIP Fund
15	Energy Efficiency Implementation Study/Plan				\$	\$ 100,000					\$ 100,000	CIP Fund
16	Engineering Division Space Planning				\$	\$ 35,000					\$ 35,000	CIP Fund
	CIP Fund Facilities Projects TOTAL				\$ 1,406,947	\$ 3,415,555	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 8,822,502	CIP Fund

City of Manhattan Beach
FY2016-2020 Capital Improvement Plan by Type

City of Manhattan Beach, Capital Improvement Plan FY2016-2020											BY TYPE
PROJECTS BY TYPE FOR FY2015-16 THRU FY2019-20											
FACILITIES (SPECIAL REVENUE FUNDS)											FUND SOURCE(S)
PROJECT TITLE	Carryover Project Number	Carryover Project Original Funding Yr	Status as of 12/12/14	Previously Committed Unspent Funds *	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FIVE YEAR TOTAL (Includes Carryover Project Funds Remaining & New Funds)	
FACILITIES (SPECIAL REVENUE FUNDS)											
17	City Yard Cover	10830E (CIP) 10834E (Water) 10839E (Storm) 10841E (WW) 10844E (Rfs)	FY 2009-10	construction	\$ 867,452					\$ 867,452	17% CIP Fund 26% Water Fund 13% Storm Fund 25% WW Fund 19% Refuse Fund
18	Pier Roundhouse	13838E	FY 2012-13	RFP	\$ 270,000					\$ 270,000	State Pier Fund
19	Pier Comfort Station	13839E	FY 2012-13	RFP	\$ 230,000					\$ 230,000	State Pier Fund
20	Crash Rated Pier Bollards	14826E	FY 2013-14	bollards ordered	\$ 100,000					\$ 100,000	State Pier Fund
21	City-Owned Refuse Enclosure Improvements: Design	15845E	FY 2014-15	pre-design	\$ 150,000					\$ 150,000	Refuse Fund
22	Pier Improvements	15848E	FY 2014-15	RFP	\$ 1,000,000					\$ 1,000,000	State Pier Fund
Other Fund Sources Facilities Projects TOTAL					\$ 2,617,452	\$ -	\$ -	\$ -	\$ -	\$ 2,617,452	

City of Manhattan Beach
FY2016-2020 Capital Improvement Plan by Type

City of Manhattan Beach, Capital Improvement Plan FY2016-2020											BY TYPE	
PROJECTS BY TYPE FOR FY2015-16 THRU FY2019-20												
PARKING PROJECTS												
PROJECT TITLE	Carryover Project Number	Carryover Project Original Funding Yr	Status as of 12/12/14	Previously Committed Unspent Funds *	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FIVE YEAR TOTAL (Includes Carryover Project Funds Remaining & New Funds)	FUND SOURCE(S)	
PARKING PROJECTS												
1	North End Business District Streetscape	07829E	FY 2006-07	pending	\$ 125,912					\$ 125,912	Parking Fund	
2	Parking Structure Structural Rehabilitation/Reinvestment (Based on findings of Structural Inspection)	15846E	FY 2014-15	RFP	\$ 417,000	\$ 814,500				\$ 1,431,500	Parking Fund	
3	Lot 1 Retaining Wall (10th & Bayview)	15847E	FY 2014-15	pre-design	\$ 100,000					\$ 100,000	Parking Fund	
Parking Projects TOTAL												
					\$ 642,912	\$ 814,500	\$ -	\$ -	\$ -	\$ -	\$ 1,657,412	

City of Manhattan Beach
FY2016-2020 Capital Improvement Plan by Type

City of Manhattan Beach, Capital Improvement Plan FY2016-2020											BY TYPE
PROJECTS BY TYPE FOR FY2015-16 THRU FY2019-20											
PROJECT TITLE	Carryover Project Number	Carryover Project Original Funding Yr	Status as of 12/12/14	Previously Committed Unspent Funds *	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FIVE YEAR TOTAL (Includes Carryover Project Funds Remaining & New Funds)	FUND SOURCE(S)
SUMMARY ALL PROJECT TYPES											
WASTEWATER PROJECTS				\$ 2,183,505	\$ 625,000	\$ 4,750,000	\$ 5,000,000	\$ 3,150,000	\$ 1,950,000	\$ 17,658,505	See Above
WATER PROJECTS				\$ 6,414,983	\$ 365,829	\$ 11,875,000	\$ 9,425,000	\$ 5,700,000	\$ -	\$ 33,780,812	See Above
STORMWATER PROJECTS				\$ 440,000	\$ 712,700	\$ 712,700	\$ 712,700	\$ 712,700	\$ 712,700	\$ 4,003,500	See Above
STREETS PROJECTS (w/out Sep Bdg)				\$ 9,590,401	\$ 3,830,000	\$ 2,965,000	\$ 925,000	\$ 925,000	\$ 850,000	\$ 19,085,401	See Above
FACILITIES PROJECTS				\$ 1,406,947	\$ 3,415,555	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 8,822,502	See Above
FACILITIES PROJECTS (Special Revenue Funds)				\$ 2,617,452	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,617,452	See Above
PARKING PROJECTS				\$ 642,912	\$ 200,000	\$ 814,500	\$ -	\$ -	\$ -	\$ 1,657,412	See Above
FUNDED PROJECTS BY TYPE SUBTOTAL				\$ 23,296,200	\$ 9,149,084	\$ 22,117,200	\$ 17,062,700	\$ 11,487,700	\$ 4,512,700	\$ 87,625,584	
STREETS (Sepulveda Bridge)				\$ 19,642,126	\$ 1,000,000	\$ -	\$ -	\$ -	\$ -	\$ 20,642,126	
FUNDED PROJECTS BY TYPE TOTAL				\$ 42,938,326	\$ 10,149,084	\$ 22,117,200	\$ 17,062,700	\$ 11,487,700	\$ 4,512,700	\$ 108,267,710	
NOTES:											
* Previously committed unspent funds as of 12/27/14. These funds were previously approved which could include projects in contract for design and construction. Includes encumbered funds.											

City of Manhattan Beach
 FY2016-2020 Capital Improvement Plan Unfunded Projects by Type

UNFUNDED PROJECTS FY2016-2020 PROJECTS BY TYPE			
PROJECT TITLE	Five-Year Total	FUND SOURCE(S)	
UNFUNDED STORMWATER PROJECTS			
a	Infiltration Projects: Various Locations ¹	\$ 30,000,000	Storm Drain Fund
	Total Stormwater Unfunded	\$ 30,000,000	
UNFUNDED ASPHALT PAVEMENT PROJECTS			
a	Asphalt Arterial Resurfacing Program ²	\$ 1,810,500	TBD
b	Residential Overlay Reconstruction Program ²	\$ 4,224,500	TBD
	Total Unfunded Pavement Projects	\$ 6,035,000	
UNFUNDED FACILITIES PROJECTS			
a	Begg Pool Reconstruction	\$ 3,000,000	TBD
b	Fire Station 2 Rebuild	\$ 6,000,000	TBD
c	CERT Vehicle Cover (Location to be Determined)	TBD	TBD
d	City-Owned Refuse Enclosure Improvements Phase II: Construction	\$ 600,000	TBD
	Total Unfunded Facilities Projects	\$ 9,600,000	
	TOTAL UNFUNDED PROJECTS	\$ 45,635,000	
1	\$15 - 30 million estimate is a placeholder. Actual project scope and cost to be determined based on results of Enhanced Watershed Management Plan.		
2	Contingent on Pavement Management recommendations		

Agenda Date: 2/17/2015

TO:

Honorable Mayor Powell and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Marisa Lundstedt, Community Development Director
Laurie Jester, Planning Manager
Angelica Ochoa, Associate Planner

SUBJECT:

Status Report on Historic Preservation (Community Development Director Lundstedt).
REVIEW AND PROVIDE DIRECTION

RECOMMENDATION:

Staff recommends that the City Council consider the information in this report regarding Historic Preservation and provide direction as requested.

FISCAL IMPLICATIONS:

The implementation of the Mills Act Pilot Program and Historic Preservation Ordinance will require additional staff time and resources, as well as the services of a historic preservation consultant. Staff has prepared a detailed cost estimate for the Historic Preservation Program, which is anticipated to be approximately \$250,000 for an initial launch of the program. The estimated \$250,000 cost includes the establishment of a Historic Preservation Commission, planning support, consultant fees, admin support (new half-time admin clerk), training/education, community outreach, as well as conducting a Citywide survey to research and evaluate potential historic properties. The cost is anticipated to be reduced in future years once the Citywide survey (estimated at \$100,000) is completed and as less consultant support is required.

On October 7, 2014, the Council approved a \$50,000 contract for a Historic Preservation Consultant to assist staff with the historic preservation process. These fees are currently being expended in the current drafting of the ordinance.

EXECUTIVE SUMMARY

In October 2014, the City Council approved the Mills Act Resolution and Pilot Program and directed staff to return with an updated Historic Preservation Ordinance, discussion of the

fiscal implications of the Mills Act with affected stakeholders and enter into a contract with a Historic Preservation Consultant. In December 2014, staff returned with status report on the requested items, which also included a draft ordinance framework and an outline of three (3) potential policy considerations. These policy items are as follows:

1. Commission Structure:

The use of a stand-alone Historic Preservation Commission versus using and/or expanding the City's standing Planning Commission for historic preservation review;

2. Owner consent:

Whether owner consent should be required for, first, the preparation of historic landmark nominations/applications and, second, the ultimate designation of Historic properties; and

3. Demolition permits:

The process, policies, and options surrounding the issuance of demolition permits for properties that are potential historic landmarks, but have not been officially designated as such.

Based on City Council input and direction on these three key policy issues, staff will then continue to work with the historic preservation consultant, as well as with the various stakeholders, to begin code amendments through Planning Commission public hearings and then return to the City Council with a final Historical Preservation Ordinance for adoption.

BACKGROUND:

On June 17, 2014, staff provided the City Council with a report on the Mills Act and the Council directed staff to research the feasibility of implementing a Mills Act Program. On October 7, 2014, staff returned with a presentation on the Mills Act Pilot Program, a draft Mills Act Resolution, information on the Historic Landmark Preservation/Designation process, and information on retaining the services of a historical preservation consultant. After discussion, the City Council approved the Mills Act Resolution and Pilot Program and directed staff to return with an updated Historic Preservation Ordinance, discussion of the fiscal implications of the Mills Act, and to enter into a contract with a Historic Preservation Consultant. The City Council also requested that staff coordinate with key stakeholders.

On December 16, 2014 the Council was provided with a status report on Historic Preservation and the Mills Act. Staff reported on its outreach efforts, the status of the contract with the historic preservation consultant (SWCA Environmental Consultants), and the meetings with the Los Angeles Conservancy and the Manhattan Beach Cultural Heritage Conservancy (MBCHC). At this meeting, Council directed staff to conduct additional outreach and research and return with information regarding three (3) key policy items.

DISCUSSION:

The intent of this report and discussion is for the Council and the community to understand the implementation and impacts of a Historical Preservation Ordinance. As a part of this work effort, staff met with the Historical Consultant, the Los Angeles Conservancy and representatives from the MBCHC to discuss the main issues in developing the City's Ordinance. As further directed by Council at the December 16, 2014 Council meeting, staff

also consulted several other cities for purposes of benchmarking and evaluating best practices of other cities.

Key Policy Issues

Staff is seeking direction on the following three key policy issues to incorporate into the draft Historical Preservation Ordinance to be reviewed by the Planning Commission and City Council:

1. Historic Preservation Commission
 - Establishing separate stand-alone Historic Preservation Commission; or
 - Utilize the Planning Commission plus two ex-officio members (Staff recommendation)
2. Nomination Process
 - Voluntary - only property owner (Staff recommendation)
 - Limited involuntary - anyone, other than property owner
 - Involuntary third party - City Council, Historic Preservation Commission, Community Development Director, or MBCHC.
3. Demolition and Alteration Permits
 - No permits affecting the potential landmark property shall be issued without staff review and approval (Staff recommendation)
 - Allow all permits to be issued at any time if a potential landmark has not yet been officially designated.

In order to compile important comparative information, the City's historical consultant conducted research and collected comparative data on other historic preservation programs used in numerous cities throughout California, with a focus on Southern California. The analysis and options presented here combine that research information, State Office of Historic Preservation (OHP) guidelines (Attachment 1), as well as the consultant's experience in historic preservation at the local level.

It is important to note that historic preservation ordinances vary widely and there is no one accepted way of designing and implementing an effective, balanced preservation program. A variety of options can be considered in order to design a preservation program tailored to the specific needs and situation of the City of Manhattan Beach.

Policy Issue 1: Historic Preservation Commission

This issue involves whether Manhattan Beach should establish a stand-alone Historic Preservation Commission or assign its historic preservation activities and review authority to an expanded Planning Commission. In the latter scenario, the Planning Commission would have two ex-officio members appointed. These new individuals would have demonstrated expertise or interest in historic preservation, historic architecture, architecture, and/or local history. Additionally, one member of the Planning Commission would be required to be an architect or other design professional, as is typical with the Commission historically, and the other Commissioner would need to have an interest in preservation. All would receive training and education.

Some of the duties of the Commission would be to:

- Recommend the designation of historical resources.
- Review and hold public meetings on applications of Certificate of Appropriateness, which are required after a landmark has been designated and a property owner wants to modify the building. The Certificate of Appropriateness is a review process to ensure the historical integrity of the landmark is maintained.
- Maintain a current register of designated historic resources and current inventory of potentially historic resources.
- Advise the City Council pertaining to historical preservation, including Mills Act applications.

The following presents pros and cons of each scenario, as well as staff's recommendations.

Option 1: Stand-alone Historic Preservation Commission

Under this option, a number of individuals (usually five) would be appointed to provide input on all matters relating to historic preservation in the City. Typically, the City would attempt to identify and appoint a given minimum number of Commissioners (two to four) who have a demonstrated interest and/or experience in preservation, local history, architectural history, and/or architecture.

Among cities with historic preservation ordinances, having a stand-alone Historic Preservation Commission is the most common model. For cities with a lower volume of preservation-related applications or agenda items, the Historic Preservation Commissions could meet quarterly rather than monthly.

Pros:

The advantages of a stand-alone Historic Preservation Commission are that a new Commission of five local experts or individuals interested in preservation/local history offers the City staff, Council, and community an additional, independent body focused exclusively on preservation issues. This body also can provide specialized support and advice to the City in administering its historic preservation program and serve as a preservation resource for the community.

In addition, the benefit of a stand-alone commission would be that the City would be eligible to apply for Certified Local Government (CLG) status from the State Office of Historic Preservation (the benefits and requirements of having CLG status are described in Attachment 2). CLG status gives the City the ability to apply for annual preservation-related grants, as well as to receive ongoing technical assistance from the State OHP on all matters related to historic preservation in the City.

Cons:

As an alternative, a stand-alone Historic Preservation Commission would require additional City staff time, resources and expense associated with creating, staffing, and administering a new, stand-alone City Commission, particularly since the number of historic preservation applications is not known. Should the City Council wish to proceed with a separate commission, they could also re-evaluate this option at a future date, such as after the 2-year

Mills Act Pilot Program.

Option 2: Planning Commission as ex-officio members of the Historic Preservation Commission, plus two additional members (staff recommendation)

Under this option, the standing Planning Commission would serve as the foundation for an expanded Historic Preservation Commission. The Commission would provide historic preservation input and guidance in a similar advisory capacity to the City Council as described in the previous option. This model is less common, but cities using this model report that it has worked well for their needs and situation.

Cities following this model vary in execution and form. In one model, the Historic Preservation Commission might consist of the Planning Commission members, plus a specified number (two to four) of members, with a demonstrated expertise or interest in preservation/architecture/local history. The Historic Preservation Review Committee would convene on the days of scheduled Planning Commission meetings (before or after), when there are preservation-related items on the agenda, anticipated to be monthly.

Pros:

For cities with relatively infrequent historic preservation review issues, utilizing an expanded Planning Commission can prove more time and resource efficient. An additional advantage, as indicated by other cities, is that this model can help the Planning Commission become more informed about the issues surrounding historic preservation and the California Environmental Quality Act and its provisions for historic resources.

In addition, the most cited advantages of this scenario are lower costs, time and resources spent creating and administering a new, stand-alone Commission. Based on our understanding of the current State regulations, use of this option would also still qualify the City for obtaining CLG status.

Cons:

There are fewer cities in California (and in the United States generally) that utilize this model. It is more common for cities with historic preservation ordinances to establish a stand-alone Historic Preservation Commission. In addition, not all cities surveyed were in agreement on whether this system consistently saved time and money.

Reasons for Recommending Option 2

Staff is recommending that the Planning Commission act as the Historic Preservation Commission, plus two additional members with historic preservation knowledge. The Planning Commission is already established and since a large volume of applications are not anticipated, staff feels that the Planning Commission, plus two additional members, and the Historic Preservation Consultant will provide the expertise required.

If the City Council approves the Planning Commission, plus two additional members as the Historic Preservation Commission, it would require a code amendment to the Zoning Code to require that at least one member of the Planning Commission be an architect, design professional or similar professional and two more members must have an interest in historic

Preservation if the Council wishes to pursue status as a (Certified Local Government (CLG) through the State. The Historic Preservation Commission action on the designation for a property would be forwarded to the City Council as receive and file item. The City Council action would be final.

Policy Issue 2: Voluntary versus Involuntary for Nomination/Application and Designation

This issue involves whether property owner consent would be required in the nomination/application process and designation of properties. As OHP states, the challenge of a new historic preservation ordinance is balancing preservation goals and needs of the community and including the landowners in the preservation process. Incorporating owners' rights into the City's historic preservation policies is a critical element in striking this balance.

In terms of owner consent, a majority of preservation ordinances do not include owner consent provisions; for most cities, the nomination/application and designation process can take place without owner consent (though some ordinances include a provision for owner notification).

The nomination/application of a potential historic property includes submitting an application and providing research and facts in support of a property's historic significance and qualification under the City's criteria of significance. The designation of a historic property is the review, approval and listing on a local Register of Historic Resources. The designation is acted on by the City Council, with a recommendation from the Historic Preservation Commission under either option. The following describes the different options on the nomination/application process:

Option 1: Voluntary process:

A nomination/application can only be initiated and prepared and/or commissioned by the property owner.

Pros:

This option maintains the property owners right to control whether his/her property is considered for nomination. This option may also prevent a disgruntled neighbor from nominating a property that was proposed to be remodeled or demolished if they were unhappy with the proposed new development, or if there was just an unrelated neighbor dispute. This could hold up the sale or development of a property that may potentially have no historic value.

Cons:

This option would prohibit someone other than the homeowner from nominating a potential property. Potential historic resources may be overlooked with this option.

Option 2: Limited voluntary process (staff recommendation):

A nomination/application can be initiated and prepared by a range of individuals - City staff and Commissioners, the Manhattan Beach Cultural Heritage Conservancy (MBCHC) and/or property owner. If it is determined through the application process that the property meets the designation criteria, the property owner would still need to authorize proceeding with the

designation. In cases involving a highly significant property to the City, the City Council may have the authority to override the requirement for property owner consent.

Pros:

Under a limited scenario, this option would enable someone other than the homeowner to potentially nominate a historical resource for consideration. This could provide for a reasonable cross-section of potential nominations which would also include owner involvement/consent. This option would also allow time and more in-depth study of potential resources to be evaluated that the City considers possibly beneficial to the community. This also allows time for the property owner to be educated on the advantages of preserving, maintaining and restoring the resource, and for options to be explored.

Cons:

This option would prohibit someone other than the listed entities from nominating a historical resource for consideration. This option could also potentially hold up the sale or development of a property.

Option 3: Involuntary process:

A nomination/application can be initiated and prepared and/or commissioned by a range of individuals -the property owner, City Council members, City staff and commissioners, and members of the public.

Pros:

A wider range of potential historical resources may be considered for nomination under this option. This option would also allow time to research the potential historic aspects of the property. If a property has true historic value this would give the community the time to become aware of the situation, understand the impacts of potentially losing a valuable resource and possibly rally support to preserve that resource. The property owner could be educated on the advantages of preserving, maintaining and restoring the resource, and options could be explored.

Cons:

This option may present issues which ultimately limit the property owner's right to alterations and building modifications. As with option 2, this option could potentially allow a disgruntled neighbor or anyone to nominate any property at all in the City. This could hold up the sale or development of a property that may have no historic value.

Reasons for Recommending Option 2

Staff is recommending that the City Council adopt a limited voluntary process (Option 2) which would only allow the City, the MBCHC or the homeowner to request the property be nominated or designated. If the property owner does not initiate the nomination/application, they would still need to consent to the designation. This option would allow greater latitude of flexibility for potential nominations, but also require owner consent.

Policy Issue 3: Demolition and Alteration Permits

Historic preservation ordinances typically include the review process required for the issuance of partial and total demolition permits. Also, the MBCHC requested this issue be addressed in the Ordinance to ensure potential historic properties were protected.

The following provisions, which represent a range of approaches, are typical strategies used by cities in California for the review of demolition permits. The Certificate of Appropriateness is required when a designated landmark building and significant alterations/modifications, including any demolition, partial or total, are being proposed. Some cities define degrees of demolition, depending upon the percentage of the total square footage being removed. The process and findings of fact for demolition permits might address efforts to restore, rehabilitate, and/or relocate the resource and whether these have been pursued and/or exhausted.

Preservation ordinances typically describe the process that would need to be followed in order to secure the Certificate of Appropriateness for a demolition permit. Some cities offer applicants the option of filing a Certificate of Economic Hardship. If retaining a historic property is based on economic hardship or infeasibility, the applicant is typically required to provide accompanying documentation from a structural engineer and/or historic architect experienced in historic preservation.

Typically, while a landmark nomination/application is in process, no building, alteration, demolition, or removal permits for the nominated resource will be issued until a public hearing, approval and/or appeals process has concluded. This is a typical provision in Historic Preservation regulations. Additionally, if a potential landmark is included on the City's historical resources survey and inventory list, but has not been nominated or designated, no demolition or alteration permits shall be issued without staff review and approval.

Option 1: No limits on permit issuance

This option allows all permits, demolition, alteration or any other, to be issued at any time if a potential landmark has not yet been officially designated.

Pros:

This provides no limitations to the property owner, allowing them to development, remodel, add-on, or demolish their property the same as any other property in the City. There is no loss of time or money to the property owner while their property is being evaluated.

Cons:

Potential historic resources would not be protected and may be significantly altered so they no longer sustain their historical significance or they could be demolished. Once a potential resource is lost, it cannot be replaced.

Option 2: Proposed Language - Director Review (staff recommendation)

If a demolition or alteration permit is submitted for a potential historic property, the Community Development Director will have 30 days to review the historical significance and determine whether it generally meets the criteria of a Historic Landmark. If the property generally meets the historic designation criteria, the Director then provides written notice to the property owner and no demolition or alteration permit may be issued for the structure.

Pros:

Potential historic resources would be protected while they are being evaluated. This would prevent buildings from being significantly altered such that they would no longer sustain their historical significance. It would also prevent demolition and allow time for the MBCHC and other groups to further study and evaluate the building and to provide outreach and education to the property owner.

Cons:

This limits the property owner, not allowing them to development, remodel, add-on, or demolish their property the same as any other property in the City. There is potentially a loss of time or money to the property owner while their property is being evaluated.

Reasons for Recommending Option 2

The intent of the section is to protect potentially historic properties from demolition or alteration and therefore, staff recommends Option 2. This is a typical requirement of historic preservation ordinances and a 30 day review period is considered reasonable in order to evaluate and protect a potential historic resource.

Stakeholder Outreach and Input

Staff met with the Los Angeles Conservancy and the MBCHC to obtain their input and assistance on the draft Ordinance. The Los Angeles Conservancy provided a model ordinance to staff which other cities have used in developing their local Historic Ordinances. The City's Historic Preservation consultant and the City Attorney's office are finalizing their comments on the model ordinance and those comments will be incorporated into the draft that is presented to the Planning Commission. Elements of the model ordinance, as well as elements of the California Historic Preservation Ordinances will be utilized to create a Historic Preservation program for the City of Manhattan Beach that provides more flexibility and follows the format of our local ordinances.

In addition to the key policy issues discussed in this report, the MBCHC and Los Angeles Conservancy had a number of comments that staff will work to address in the draft of the ordinance prior to final consideration by the Planning Commission and City Council:

- Language consistency: Cross-check language within the ordinance for consistency.
- Establishment of a Commission: Support a new separate and independent Historic Preservation Commission, not in support of ex-officio Commission with Planning Commission and two additional members.
- Minimum age of building: Do not have 45 year minimum age to allow flexibility, for mid-century and other more modern architecture.
- Owners consent for nomination/designation of historic properties: Los Angeles Conservancy suggested to not requiring owner's consent. The MBCHC indicated that they would reach out to potential property owners to see if they were receptive in nominating their property, but would not proceed with a nomination without the property owners consent.
- Historic districts: Address the percent of property owners required to initiate an

application/nomination for a landmark property.

- Secretary of Interior Standards: Include standards and other Certified Local Government (CLG) standards in ordinance.
- Certificate of Appropriateness process: Include processes for major, minor, and maintenance/repair and what level of approval and criteria for these options.
- Demolition process/procedures: Establish procedures to ensure that potentially historic buildings are not demolished prior to review and possible designation.

Staff will continue to work with the Los Angeles Conservancy, as well as the MBCHC to address these comments. Additionally the Historic Preservation consultant and the City Attorney will continue to provide input and guidance.

Schedule of Next Steps

The following schedule provides a listing of the remaining tasks required for the preparation of the Historical Preservation Ordinance. In an effort to reduce time, staff will be requesting a special Planning Commission meeting in April for an earlier public hearing date.

- Task 1 - Review, Analysis, and Input:
Continued review by the consultant, City Attorney, stakeholders and staff on the Historical Preservation Ordinance and other Municipal Code and Local Coastal Program (LCP) Amendments (continued through July 2015).
- Task 2 - City and Stakeholder Meetings and Coordination:
Coordination with MBCHC and Los Angeles Conservancy, as well as other interested parties on all Code Amendments and educational and outreach efforts (continued through July 2015)
- Task 3- Final Draft Ordinance Complete:
Complete all revisions to the final draft ordinance for presentation to the Planning Commission (March 2015)
- Task 4 - Planning Commission Public Hearings:
Required public hearings for Municipal Code and LCP Amendments. (April 2015-May 2015)
- Task 5 - City Council Public Hearings:
Required public hearings for Municipal Code and LCP Amendments, including first and 2nd reading of Ordinances (June 2015 - July 2015)
- Task 6 - California Coastal Commission:
Required Amendments to LCP through State (July 2015-December 2015)
- Task 7 - Preparation of Historic Preservation Educational and Outreach Materials:

(July 2015 - ongoing)

CONCLUSION

As directed by Council, staff has conducted research regarding the three policy issues and presented options for review and consideration. Staff will proceed as directed by council and continue to complete the final draft Historic Preservation Ordinance.

The Historic Preservation Ordinance would not be implemented or effective until staff and the historic preservation consultant finalize the specifics of the Program application materials, and review criteria and procedures, Landmark Code Amendments, fees, outreach materials, and any other required information.

Attachment:

1. California Office of Historic Preservation Technical Assistance Series Bulletin 14
2. Certified Local Government Program (CLG) Overview

14

California Office of Historic Preservation
Department of Parks & Recreation
Technical Assistance Series

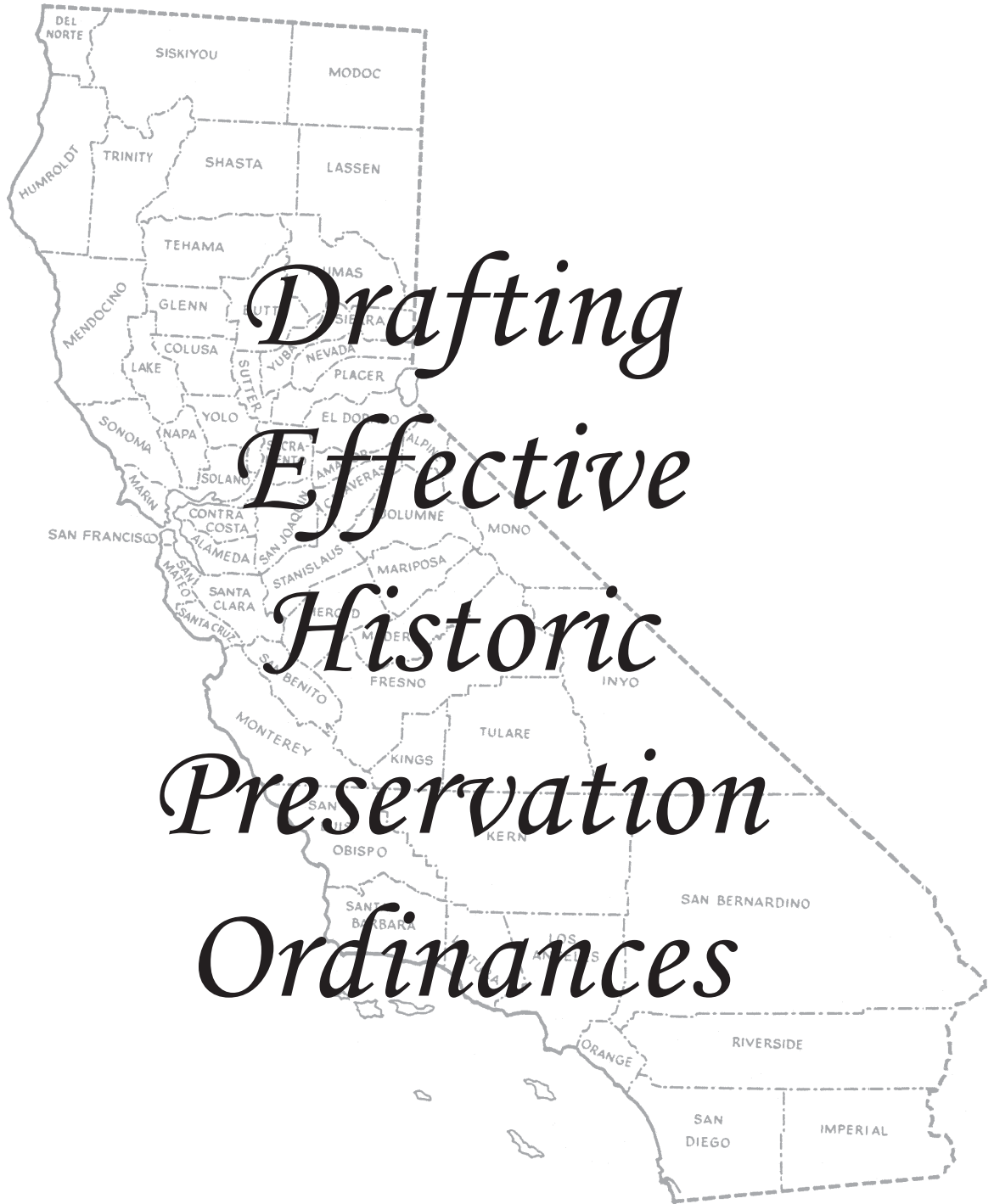


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**DRAFTING EFFECTIVE
HISTORIC PRESERVATION ORDINANCES:
A MANUAL FOR CALIFORNIA'S LOCAL GOVERNMENTS**

TECHNICAL ASSISTANCE BULLETIN #14

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**for the
OFFICE OF HISTORIC PRESERVATION
STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION**

WITH A GENEROUS GRANT FROM THE CALIFORNIA STATE PARKS FOUNDATION

**EDITED BY
OFFICE OF HISTORIC PRESERVATION LOCAL GOVERNMENT STAFF**

Technical Assistance Bulletin #14 is intended to assist California's local governments in creating or revising a historic preservation ordinance. It identifies key issues that all communities must deal with when drafting or revising an ordinance, and discusses various approaches to each of these key issues, thus allowing each community to craft an ordinance that best fits their own preservation goals and local conditions.

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Revised June 2005

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INTRODUCTION

A local preservation ordinance should be just one part of a multi-faceted, comprehensive program aimed at protecting all of the community's historic resources. Such a program should rely on both regulatory and non-regulatory techniques in coordination with other local laws and programs. From a legal perspective, if a local government can demonstrate that it has made preservation part of its overall effort to foster and promote the general welfare and well-being of the community as a whole, the local preservation ordinance stands a better chance of surviving judicial scrutiny. From a practical standpoint, a comprehensive preservation program not only gives the local government greater access to federal and state funding and greater leverage over federal projects that affect historic properties and areas; it can also inject an element of certainty into the local development regulatory process, thereby fostering needed and compatible economic development, while preserving the community's historic and cultural values.

While the elements that constitute a comprehensive preservation program will vary greatly by jurisdiction, there are a few features common to all, including preparation of reliable background studies or historic contexts and surveys, economic assistance, and education and technical assistance. Many people have questions about the legal and practical framework for historic preservation activities in their community. For instance, there may be confusion about how the National Register of Historic Places relates to local and state activities and whether national listing, by itself, imposes any special requirements on property owners. Often, there are common perceptions about the extent of the local government's regulatory reach — just what actions may the city deny or delay?

For these reasons, an important part of a comprehensive preservation program should be educational and outreach efforts to educate homeowners, developers, and others about why historic resources are significant in the community, and what steps the city is taking to protect those resources. The education effort might target specific audiences with information that will be useful to them; the real estate community, for example, may wish to understand better any impacts that historic regulation will have on local home sales prices. Several cities, such as Seattle and Cincinnati, have set up special offices to advise owners and developers about rehabilitation plans.

In California, many current preservation ordinances (e.g., San Francisco, Oceanside, Oakland) note that it is the purpose and duty of the preservation commission to promote the preservation program. In many cases, California preservation boards produce and disseminate informational materials regarding their ordinances and the benefits of the program. The preservation board may also, as part of its educational mission, field questions and provide advice to specific property owners, particularly those with properties that are candidates for designation.

Notwithstanding the publicity often given demolition battles, they are not the norm. Effective education and outreach programs can help inform the public about the many

benefits of preservation, and thus can help build support for voluntary compliance with preservation ordinances. The education process can both explain the specific mechanics of the protections afforded by the ordinance, and also can help citizens understand the local history and why historic resources are worth preserving.

Recent estimates suggest that at least 250 to 300 governments in California have enacted an historic preservation ordinance. Many of these ordinances, such as the ones from San Francisco and Los Gatos, have been in place for several decades or more, and community leaders frequently reevaluate and fine-tune key provisions to better achieve their preservation objectives. Other California communities are just beginning to develop ordinances for the first time, using laws from other cities and towns as models.

PURPOSE OF THIS MANUAL

This manual is intended to assist California's local governments in creating or revising a historic preservation ordinance. The goal of this manual is not to present a model ordinance, nor to suggest a one-size-fits-all approach to the drafting process. All communities have different goals for their preservation programs, based on widely varying factors such as the types of historical resources they want to protect, the degree of protection they want to offer through an ordinance, and local development pressures.

Instead, the manual identifies key issues that all communities must deal with when drafting or revising an ordinance. For instance, how should the preservation commission be appointed? What standards of review should apply to certificates of appropriateness? Should property owners be given the opportunity to veto historic designation? How do you prevent demolition of historical resources by neglect? The intent of this manual is to discuss various approaches to each of these key issues, thus allowing each community to craft an ordinance that best fits their own local conditions.

KEY ELEMENTS OF A LOCAL PRESERVATION ORDINANCE

While each preservation ordinance should be unique and tailored to the needs of the individual community, there nevertheless are certain basic components found in most effective preservation ordinances throughout California (and the country). A capsule summary of each of these common elements is listed below. The sections listed below correspond to each of the subsequent sections of this manual.

SECTION 1: PURPOSE

Understanding local preservation goals is a crucial first step in the drafting process, and every preservation ordinance should begin with a clear and succinct purpose statement. Why preserve historic buildings? What does the community hope to accomplish by regulating the appearance of new construction in historic areas? This manual presents a set of questions that are designed to assist communities in defining their preservation goals.

SECTION 2: ENABLING AUTHORITY

The ordinance should identify the legal authority by which it is able to regulate historic buildings and historic areas. This manual discusses the state and federal legal framework for preservation in California.

SECTION 3: ESTABLISHMENT OF PRESERVATION COMMISSION

The ordinance must identify the local entity charged with administering and enforcing the ordinance and list their specific responsibilities. In many cases the preservation commission is a separate decision-making body within the local government. In other cases the city council or its equivalent may act in the capacity of a preservation commission. This manual reviews key issues to consider when drafting this crucial section. For example, should the community require professional qualifications of preservation commission members? What types of activities should fall under the preservation commission's jurisdiction? Should the commission have decision-making authority, or merely be advisory to some other body, such as a planning commission?

SECTION 4: PROCEDURES AND CRITERIA FOR DESIGNATION OF HISTORICAL RESOURCES

What types of historical resources should be protected, and how? Should the ordinance consider both individual buildings and structures and also historic districts? What about archaeological resources? Clear criteria for the designation of historical resources are an essential feature of a preservation ordinance. This manual discusses the basic issues regarding designation procedures and criteria in detail. Other related topics that are covered include owner consent; designation of interiors; and alternatives to designation such as conservation districts.

SECTION 5: PROCEDURES AND CRITERIA FOR ACTIONS SUBJECT TO REVIEW

Once a resource is designated, what types of activities that affect it should be regulated by the community? Local preservation commissions typically are granted some authority over demolition or major alteration of designated properties, and also new construction in historic areas. Within these general categories, there are many questions to consider. For example, should the community be able to say "no" to demolitions of historic properties, rather than just delay them?

SECTION 6: CONSIDERATION OF ECONOMIC EFFECT OF DESIGNATION OR REVIEW OF ACTION

To ensure compliance with federal and state constitutional requirements, the ordinance should include a procedure allowing a property owner to make the case that, in some situations, enforcement of the ordinance will cause unusual and extreme economic hardship. This is analogous to the variance provisions of a standard zoning ordinance, which provide a

“release-valve” in unusual cases where regulation of development and use of a property may potentially rise to the level of an unconstitutional “taking.” From a policy perspective, it may also be desirable to allow for some degree of flexibility within a preservation ordinance in order to encourage rehabilitation and economic use of the property, to avoid making “mothballing” of regulated properties the result of historic preservation efforts.

SECTION 7: APPEALS

How are decisions made under the ordinance appealed, and to whom? A defined appeal process provides a local administrative resolution to numerous claims that might otherwise spur litigation in the immediate aftermath of a decision by the preservation commission.

SECTION 8: ENFORCEMENT

The most well-crafted preservation ordinance may be rendered ineffectual with weak enforcement provisions. How can the community ensure compliance with the ordinance? The manual outlines enforcement issues that communities should keep in mind when drafting or revising their ordinance.

SECTION 9: DEFINITIONS

A concise set of definitions helps to clearly establish the scope of regulation, particularly the type of structures and other features subject to designation and review and the specific actions that trigger review.

The following sections in this manual discuss each of the key ordinance components listed above. For all subjects, this manual first defines and explains the relevant issue, and then where applicable, presents sample excerpts from adopted ordinances to show how other California communities are addressing the issue. While these examples do not always represent the entire universe of possible approaches, nor do they necessarily represent the best approach for a particular community, they nevertheless have been selected to represent the range of approaches currently in use in California.

Note: For the purposes of this manual, historical resources also includes archaeological resources, sometimes referred to as cultural resources, and cultural landscapes.

SECTION 1: PURPOSE

Understanding local preservation goals is a crucial first step in the drafting process, and every preservation ordinance should begin with a clear and succinct purpose statement. Why preserve historic buildings? What does the community hope to accomplish by regulating the appearance of new construction in historic areas?

Every preservation ordinance should be unique, and there are many reasons – cultural, economic, aesthetic, educational, and social – why a community might choose to adopt regulations to protect its historical resources. Regardless of the particular reasons chosen, the clear articulation of community goals is an important first step in the ordinance drafting process. Just as important, the community's ability to adopt and enforce preservation regulations should be considered early in the drafting process. The following are suggestions of several key issues to be addressed:

What is the purpose behind an ordinance? Asking the question “Why preserve?” is a crucial first step in determining the form and scope of any preservation ordinance.

- What are the reasons for preservation in the community? Is it important from an economic standpoint, or are the reasons mainly archaeological, architectural or historical? Most communities rely on multiple reasons to justify their preservation programs.
- Are there currently any threats to a particular historical or archaeological resource or district calling for immediate action? Are there future development pressures?
- Is there a general understanding of and sympathy toward preservation in the community? How is this reflected in neighborhoods, by business, or within the local government? Do citizens see a need for action to preserve historical resources?
- Has there been a failure to recognize historic preservation values in past development or planning efforts?

What resources should be protected? Next, the community must identify the specific types of historical resources that should be protected by asking the following types of questions:

- Does the community have only a few scattered buildings worth saving, or should the focus be broader – on districts and neighborhoods?
- Are there known archaeological sites that need to be protected? Has the community developed an archaeological preservation plan?
- Has a survey of historical resources, including known and potential archeological resources, already been conducted, or must this information still be developed?
- What features of historic buildings are important and worth preserving? Should the focus be on exterior facades only, or also on interior features?

- Should historic plantings, cultural landscapes, or open space associated with archaeological and historical resources be protected?
- Should the ordinance focus on new construction in historic or archaeologically sensitive areas?
- Can the preservation ordinance be linked with neighborhood conservation?
- What is the primary use of existing historical resources? Residential, commercial, industrial, or a mix?
- Who owns the resources – homeowners, businesses, developers, charitable organizations, or the government?
- What aspects of the community's history and prehistory do the existing historical resources reflect?
- In addition to historic residential buildings, neighborhoods and districts, are there also historic business or industrial resources which need consideration and protection?
-

How should historical resources be protected? The community should consider the best way to protect historical resources.

- Are the important historic or architectural features of buildings in the community of one style or type? Are they easily identifiable? Can clear and understandable standards and criteria for designation and permit review be devised?
- Should the ordinance merely require delays prior to the demolition of historical resources, or should the community be allowed to deny demolitions?
- What is the current state of repair of historical resources in the community? Are they in need of renovation, and if so, is it realistic to expect rehabilitation to occur? Is maintenance of existing structures a concern?
- Where there are known archaeological sites or where there is likelihood for archeological resources to be present, are there provisions for identifying and evaluating such resources, developing treatment plans and developing and enforcing mitigation measures?

How should the ordinance be administered and enforced? The ordinance should be drafted to meet the goals of legal defensibility, effectiveness, administrative efficiency, and fairness to parties involved in the process.

- Who should be the primary body charged with administering and enforcing the ordinance? The city council or board of supervisors? A separate preservation commission? Can the local government supply staff to support a new commission?
- What are the existing tools for regulating zoning and land use in the community? Do preservationists have confidence in these existing mechanisms? Can preservation be integrated into the existing regulatory system? Will the local zoning board and planning commission be knowledgeable and sensitive to preservation goals? Should one of those bodies make final decisions?

- What level of authority should staff have in making decisions under the ordinance?
- How will the ordinance be enforced? Does the local government have the capability to monitor developments in the community, or will that task fall to preservationists?
- Is a strong preservation ordinance liable to be attacked? If so, would the local government be willing and able to defend it, or would that task fall to local preservationists?
- What kind of preservation-oriented talent is available in the community to assist in achieving local preservation goals? Are there enough knowledgeable people to run yet another volunteer commission or advisory group?

Only after these questions have been considered should the drafting of a new ordinance (or the redrafting of an existing one) begin. Perhaps the most important thing to keep in mind is that each community is unique, and those drafting the ordinance should not feel constrained by what other cities and towns have done.

After considering the community's goals and capabilities, the ordinance drafters must generate a purpose statement for the ordinance. Such a statement is essential to set forth the local government's reasons for enacting the preservation law, and to tie historic preservation efforts to available governmental authority. In exploring the role that preservation regulations will play in the community, local governments should strive to develop a comprehensive preservation program that goes further than simply approving an ordinance to control the demolition of historical resources. The City of San Jose, for example, articulates in its purpose section a broad intent to both preserve historic structures and review further development that will impact the positive qualities of that City's historical resources (See excerpt below.).

From a legal perspective, if a local government can demonstrate that it has made preservation part of its overall effort to foster and promote the general welfare and well being of the community as a whole, the local preservation ordinance stands a better chance of surviving judicial scrutiny. For example, the City of Davis enumerates the protection of visual character, the protection of property values, and the enhancement of economic benefits within its "Purpose" section to justify the exercise of regulatory power in its historic preservation ordinance (See excerpt below.).

The practical benefits of a broadly conceived and well-defended preservation program are even more important. An effective preservation program will not only give local government access to federal and state funding and greater leverage over federal projects that affect historic properties and areas. It also can inject an element of certainty into the local development regulatory process, thereby fostering needed and compatible economic development. For more discussion of these issues, see the final section in this manual, "Developing a Comprehensive Preservation Program."

**CALIFORNIA CODE EXCERPTS:
DEFINING LOCAL GOALS AND CAPABILITIES**

CITY OF DAVIS

Section 40.23.010 Purpose.

The purpose of this article is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings, structures, signs, features, sites, places, and areas within the city that reflect special elements of the city's historical, architectural, archaeological, cultural, or aesthetic heritage for the following reasons:

- A. To encourage public knowledge, understanding, appreciation, and use of the city's past;
- B. To foster civic pride in the beauty and character of the city and in the accomplishments of its past;
- C. To enhance the visual character of the city by encouraging new design and construction that complements the city's historical buildings;
- D. To increase the economic benefits of historic preservation to the city and its inhabitants;
- E. To protect property values within the city;
- F. To identify as early as possible and resolve conflicts between the preservation of historical resources/districts and alternative land uses; and
- G. To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

CITY OF SAN JOSE

Section 13.48.010 (Purpose [–Historic Preservation]).

A. The council of the city of San Jose hereby finds that in order to promote the economic and general welfare of the people of the city of San Jose, and to ensure the harmonious, orderly and efficient growth and development of the municipality, it is deemed essential by the council of the city of San Jose that the qualities relating to the history of the city of San Jose and a harmonious outward appearance of structures which preserve property values and attract tourists and residents alike be preserved; some of these qualities are the continued existence and preservation of historic districts and landmarks; continued construction of structures in the historic styles and a general harmony as to style, form, color, proportion, texture and material between buildings of historic design and those of more modern design; that such purpose is advanced through the preservation and protection of the old historic or architecturally worthy structures and neighborhoods which impart a distinct aspect to the city of San Jose and which serve as visible reminders of the historical and cultural heritage of the city of San Jose, the state, and the nation.

B. The purpose of this chapter is to promote the public peace, health, safety and welfare through the preservation of landmarks and districts and thereby stabilize neighborhoods and areas of the city; enhance, preserve and increase property values; carry out the goals and policies of the city's general plan, increase cultural, economic and aesthetic benefits to the city and its residents; preserve, continue and encourage the development of the city to reflect its historical,

architectural, cultural, and aesthetic value or tradition; protect and enhance the city's cultural and aesthetic heritage; and promote and encourage continued private ownership and utilization of such structures.

SECTION 2: ENABLING AUTHORITY

Whether a community is revising an existing ordinance or starting from scratch, a prerequisite to any drafting effort should be a thorough understanding of the degree of local government authority available to adopt a preservation ordinance. In California, local governments enjoy broad authority to adopt preservation ordinances as part of their police power established in the state constitution, and also from specific state statutes.

Within the constitutional scheme of government in the United States, states are the primary holder of regulatory power over land within their borders. As is typical of many states, the California constitution grants every city and county the “police power,” which enables local governments to act to protect the health, safety, and welfare of their citizens.¹ In California (and elsewhere throughout the country), courts have made clear that land-use regulations, including zoning and historic preservation ordinances, are authorized under the public welfare component of the police power. Importantly, courts also have agreed that historic preservation is a valid public purpose, which is an important prerequisite for all governmental actions.²

In addition to the general police power, state statutes specifically authorize local governments in California to acquire and protect historical resources. Under California Government Code Section 25373(b), a county board of supervisors may, “by ordinance, provide special conditions or regulations for the protection, enhancement, perpetuation, or use of places, sites, buildings, structures, works of art and other objects having a special character or special historical or aesthetic interest or value. These special conditions and regulations may include appropriate and reasonable control of the appearance of neighboring private property within public view.” Similar authority for municipalities is found in California Government Code Section 37361(b).

Further, both federal and California courts have emphasized that governments may regulate to protect community aesthetics, which are at the heart of many preservation ordinances, to further the public welfare. This principle has been firmly established since at least 1954, when the U.S. Supreme Court noted that: “The concept of the public welfare is broad and inclusive.... The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.”³ The 1978 U.S. Supreme Court case of *Penn Central Transportation v. New York City*,⁴ generally examined the constitutionality of New York City’s preservation ordinance and found such an ordinance to be a valid public purpose and a legitimate function of local government.

¹ California Constitution, Article XI, Section 7.

² On historic preservation law in general, see Antonio Rossman, *Historic Preservation, in California Environmental Law* (K. Manaster and D. Selmi eds. 1998); Christopher J. Duerksen, *Historic Preservation Law, in Rathkopf’s The Law of Planning and Zoning* (Ziegler ed. 1975).

³ *Berman v. Parker*, 348 U.S. 26, 33 (1954).

⁴ 438 U.S. 104.

Yet, while California communities have broad preservation authority under the state constitution and statutes, their ability to regulate historical resources is still subject to certain constraints under the federal and state constitutions,⁵ including prohibitions against the taking of private property for public use without just compensation, and the guarantee of due process. These two important issues are covered later in this manual.

⁵ U.S. Constitution, Amendment V; California Constitution, Article XI, Section 7.

SECTION 3: ESTABLISHMENT OF THE PRESERVATION COMMISSION

The ordinance must identify the local entity charged with administering and enforcing the ordinance and list their specific responsibilities. In many cases the preservation commission is a separate decision-making body within the local government. In other cases the City Council or its equivalent may act in the capacity of a preservation commission. This manual reviews key issues to consider when drafting this crucial section. For example, should the community require professional qualifications of preservation commission members? What types of activities should fall under the preservation commission's jurisdiction? Should the commission have decision-making authority, or merely be advisory to some other body, such as a planning commission?

The possible strategies for organizing a preservation commission by ordinance are endless, limited mainly in California by practical political and staffing considerations, which vary widely by community. This section addresses four basic issues: composition of the review body, the scope of its powers, the location of final review authority, and disclosure of pecuniary and personal interests of review board members.

COMPOSITION

Because local preservation ordinances in California are grounded in very broad enabling authority, communities have wide leeway in the composition of preservation commissions. Members of a local preservation commission typically are appointed by the local governing body or chief executive. Preservation commissions typically have five to nine members—an odd number helps prevent tie votes. Terms vary widely, with three years being a typical length. Terms usually are staggered to ensure that experienced members always will be serving. Some communities may want to consider setting a maximum limit on the number of consecutive terms that any person can serve, to prevent the commission from becoming too closely associated with any one individual.

Each jurisdiction should consider whether to require professional qualifications for some, or all, members of the review body. Qualifications are important from both a legal and a practical standpoint. There currently are different approaches in use throughout the state. Some communities require that a few (e.g., Napa) or all (e.g., Fresno) members be trained in history, architecture, archaeology, or a related field, in order to ensure that preservation decisions benefit from professional expertise. Other communities require no such qualifications and simply ask that members express an interest in preservation in order to serve.

There are merits to both approaches. A broadly based membership can protect the ordinance and its administration from a claim of arbitrariness and can help distinguish preservation restrictions from other aesthetic controls that are sometimes invalidated by courts. Some observers argue that the overall quality of preservation and design review in the community suffers if commission members do not have solid credentials and the experience necessary to carry out their responsibilities. There is value in having a mix of backgrounds on a preservation commission.

Requiring professional qualifications ensures that members have the necessary technical expertise to review adequately matters before the preservation commission. Requiring professional qualifications for at least some members also is consistent with the national requirements for cities participating in the Certified Local Government (CLG) program, which provides a source of grant money for preservation programs in participating communities. The California CLG procedures encourage local governments to have at least two professionally qualified persons. A local government in California may be certified without the minimum number or types of disciplines established if it can be demonstrated to the satisfaction of that state that it has made a reasonable effort to fill those positions, or that some alternative composition of the commission best meets the needs of the protection of historic properties in the local community. The CLG guidelines outline professional qualifications in a handful of areas, including history, architectural history, archaeology, and architecture. For each discipline, the guidelines require a minimum level of education and professional experience, which are codified in the Code of Federal Regulations (36 C.F.R. 61). In addition to the disciplines identified in the CLG guidelines, it also is useful to have planners and landscape architects on a local preservation commission.

Some communities believe that requiring qualifications may deprive the review body of valuable common-sense perspectives from citizens not professionally involved in preservation-related fields, and also might prevent service by individuals who are well-qualified though not professionally trained. To some, “qualifications” equal bias, and thus decisions made by commissioners with qualifications may carry less weight with the legislative body, because they are perceived to be less representative of the whole community.

In an attempt to reach a middle ground between these two philosophies, many communities have adopted a balanced system made up of both professionally qualified members and also citizens-at-large who bring a broader perspective of community affairs. In such jurisdictions, only some (e.g., four out of seven) commission members are required to meet professional qualifications standards, in order to bring expertise in urban design and preservation to the commission. The Alameda, California, approach is typical:

The Commission shall consist of five members, all of whom shall be residents of the City during incumbency, nominated by the Mayor and appointed by the City Council:

- A. One registered architect
- B. One registered landscape architect, architect, or building designer
- C. One state licensed general building contractor
- D. Two members shall be citizens of the City at large, with an interest in community design.
- E. In the event that the Council determines that any of the positions described in subsections (a), (b), or (c) cannot be filled by persons qualified thereunder, the

Council may fill any such position by appointing persons qualified under subsections (a), (b), (c), or (d).⁶

Around the country, numerous courts have examined the composition of the preservation review body in the context of challenges to local ordinances. While none have held that the particular composition of a review body is fatal to the validity of a historic preservation ordinance, these courts nevertheless have noted that representation by a range of disciplines and interests helps refute any claim that the actions of the review body are arbitrary.⁷ For example, in a famous case involving a challenge to the New Orleans preservation ordinance, the court noted that the ordinance “curbed the possibility for abuse by the Commission...by specifying the composition of that body and its manner of selection.”⁸ Similarly, the Colorado Supreme Court, in a case from Georgetown, Colorado, acknowledged the importance of a commission’s expertise in helping to prevent arbitrary action.⁹ These cases indicate that careful wording can strengthen the legal case for an ordinance by specifying a knowledgeable, representative membership for a local preservation commission.

Settling on the composition of a local commission is sometimes a difficult undertaking in small communities that simply do not have a large cadre of professionals with relevant experience. There may be only one or two architects in the area, and they may be hesitant to serve if volunteering means foregoing preservation or restoration projects that might come before the commission. The solution is not an easy one. State historic preservation offices can be of great assistance by making available an architect to “ride circuit,” rendering expert advice to key members of small preservation commissions (though of course staffing such a position requires a high commitment of resources by the state.)

In summary, across California, historical review boards and preservation commissions represent a wide diversity of sizes, generally five to fifteen members, and skills, such as varying degrees of experience in preservation-related fields. In addition to the Alameda language included above, several excerpts from adopted California preservation ordinances are included below to illustrate the range of approaches used in the state today. They range from the Berkeley ordinance, which simply specifies a number of commission members and contains no detail on professional qualifications; to the Colton ordinance, which identifies a general range of disciplines from which all commission members should be drawn; to Santa Monica, which sets strict qualifications for some but not all seats on the local commission. The Los Gatos ordinance requires a mixture of lay members and planning commission members on its preservation commission; this common approach ensures a linkage between preservation and other planning and land-use activities in the community.

⁶ Alameda, California, Municipal Code, Title II, Article 3, Sec. 332.

⁷ See, *Citizens for Responsible Development v. City of West Hollywood*, 39 Cal.App.4th 490, 494 n. 1, 45 Cal.Rptr.2d 917 (Cal. App. 1995) (noting the availability of experts within the commission as the court upheld the preservation commission’s determination that certain structures were not of historic significance).

⁸ *Maher v. City of New Orleans*, 516 F.2d 1051, 1062 (5th Cir. 1975).

⁹ *South of Second Assoc. v. Georgetown*, 580 P.2d 807, 808-09 n.1 (Colo. 1978).

**CALIFORNIA CODE EXCERPTS:
ESTABLISHING THE REVIEW BODY**

CITY OF BERKELEY

Section 3.24.030. Membership – Appointments – Organization and Officers.

The commission shall consist of nine members. Appointments to the commission shall be made by council members and vacancies on the commission shall be filled by council members in accordance with [general provisions regarding appointment vacancies].

CITY OF COLTON

Section 15.40.050 Commission – Members.

The following regulations shall apply to the membership and organization of the Historic Preservation Commission:

- a) The Historic Preservation commission shall consist of seven members appointed in accord with the provisions of Chapter 2.30 of the Colton Municipal Code.
- b) The Historic Preservation Commission shall be appointed by the City Council of city residents from among professionals knowledgeable in the disciplines of history, architecture, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or related disciplines, such as urban planning, American studies, American civilization, or cultural geography, to the extent that such professionals are available in the community. Commission membership may also include lay members who have demonstrated special interests, competence, experience, or knowledge in historic preservation.

CITY OF LOS GATOS

Section 29.80.225. Historic Preservation Committee.

a) The Historic Preservation Committee acts as an advisory body to the Planning Commission on all matters pertaining to historic preservation. The Historic Preservation Committee shall consist of five (5) members, three (3) public members and two (2) Planning Commissioners. The public members shall be appointed by the Town Council and the Planning Commission members shall be appointed by the Planning Commission Chair and affirmed by the Town Council.

b) The Committee is composed of professional and lay members with demonstrated interest, competence or knowledge in historic preservation. Committee members shall be appointed from among the disciplines of architecture, history, architectural history, planning, archeology or other historic preservation-related disciplines such as urban planning, American studies, American civilization, cultural geography or cultural anthropology to the extent that such professionals are available in the community.

CITY OF SANTA MONICA

Section 9.36.040. Landmarks Commission.

A Landmarks Commission is hereby established which shall consist of seven members appointed by the City Council, all of whom shall be residents of the City

over eighteen years of age. Of the seven members, at least one shall be a registered architect, at least one shall be a person with demonstrated interest and knowledge, to the highest extent practicable, of local history, at least one shall have a graduate degree in architectural history or have demonstrated interest, knowledge and practical or professional experience to the highest extent practicable of architectural history and at least one shall be a California real estate licensee.

SCOPE OF POWERS

Just as important as who sits on the review body is what authority that body has to regulate building and land-use activities. Review bodies in various communities across California have wide-ranging responsibilities, including, but not limited to, the following:

- Survey and identification of historically and architecturally significant structures and areas;
- Establishment of standards and procedures for designation of historical resources;
- Designation of historical resources;
- Review of applications for alteration, construction, or demolition of historical resources and all structures within historic districts;
- Coordination and supervision of educational activities;
- Purchase or sale of property;
- Acceptance of easements and other less-than-fee-simple donations of property;
- Enforcement of ongoing maintenance requirements for historical resources,
- Acceptance of preservation funds from various sources, and
- Review of zoning amendments and comprehensive plans relating to historic preservation.

The most important powers that can be vested in a preservation commission have all been held valid under the U.S. Constitution by various courts: the power to deny an application to demolish or alter historical resources; to regulate new construction or development in the vicinity of a historical resource or historic district; and to impose affirmative maintenance requirements on historical resource owners. Of course, courts retain the authority to review how such powers are exercised in individual cases, but, in legal parlance, such provisions are valid on their face. Thus, there is wide latitude available in granting powers to a preservation commission in an ordinance, keeping in mind appropriate federal and state constitutional requirements.

Just as there is no one correct way to empanel an effective review body, there is no commonly accepted set of responsibilities for that body. There are, however, common elements found in most ordinances. The City of Glendale's historic preservation ordinance contains a representative list of express authorities (See excerpt below.).

A preservation commission is commonly given the power to investigate and recognize as-yet unprotected historical resources within the locality through various mechanisms,

such as preparation of historic resources surveys. Some communities establish a list of “structures of merit.”¹⁰ The Eureka, California, ordinance also provides several examples of other proactive powers that may be given to a preservation commission (See excerpt below.).

As is true with other provisions of a preservation ordinance, practical considerations, as much as legal requirements, will shape the scope of powers granted to a commission. If a community is concerned primarily with exterior facades of historical resources, then it makes little sense to add to the administrative burden by asserting control over interior changes. Similarly, in a town with a volunteer preservation commission able to meet only once a month, the commission may be overwhelmed if it must review every application for a building permit within a historic area. In such instances, it may be advisable to exempt certain changes or allow the local building official or planning staff to handle applications for “minor alterations” as defined by the commission (See the discussion below under “Section 5: Procedures and Criteria for Actions Subject to Review: Allowing Staff-Level Reviews.”).

On the other hand, in situations where any alteration in the general vicinity may be detrimental, the commission may need to control not only all external alterations to historical resources (even in the rear of a building) but also alterations to neighboring structures that are not of landmark quality,¹¹ and even interiors that are visible to the public. The City of Berkeley, for example, grants its preservation commission the power to condition the designation of a publicly owned historical resource upon the ability to review “proposed changes in major interior architectural features.”¹² In the City of Davis, the Historical Resources Management Commission is empowered to provide advice on landscaping at the sites of historical resources.¹³

Probably the most crucial consideration in drafting the powers of a preservation commission is that the review body be given adequate power to protect historical resources. This will in many cases require that it have the power to forbid demolition or alteration, not just delay it, even though such power may be exercised infrequently.

**CALIFORNIA CODE EXCERPTS:
SCOPE OF POWERS**

CITY OF DAVIS
Section 40.23.050 Powers and Duties.

¹⁰ See e.g., Berkeley, California, Code of Ordinances, § 3.24.070(A) (“the commission may establish and maintain a list of structures, site and areas deemed deserving of official recognition, although not yet designated...”).

¹¹ See, Glendale, California, Code of Ordinances, § 2.76.100(M) (commission may render a decision on any design review application “affecting” designated historical resources).

¹² Berkeley, California, Code of Ordinances, § 3.24.100(B)(1).

¹³ Davis, California, Code of Ordinances, § 40.23.050(J).

The historical resources management commission shall have the following powers and duties under this article:

- A. Act in an advisory capacity to the city council in all matters pertaining to historical resources/districts;
- B. Maintain a local inventory of historical resources/districts within the city; publicize and update periodically the inventory;
- C. Recommend the designation of historical resources/districts, as hereinafter provided;
- D. Recommend standards to be adopted by the city council, to be used by the commission in the review of applications for alteration permits;
- E. Hear and render judgment on applications for alteration permits, as hereinafter provided; approve or deny issuance of alteration permits;
- F. Investigate and report to the city council on the use of various federal, state, local, or private funding sources and mechanisms available to promote historical preservation in the city;
- G. Review and comment on the decisions and documents (including environmental assessments, environmental impact reports, and environmental impact statements) of other public agencies when such decisions or documents may affect historical resources/districts or potential historical resources/districts in the city;
- H. Cooperate with local, county, state, and federal governments in the pursuit of the objectives of historic preservation and request and receive any appropriate information from any city departments or commissions;
- I. Participate in, promote, and conduct public information, educational, and interpretive programs pertaining to historical resources/districts;
- J. Render advice and guidance upon the request of the property owner or occupant, on the restoration, alteration, decoration, landscaping, or maintenance of any historical resource, outstanding historical resource, or improvement located in a historic district;
- K. Provide for adequate public participation in local historic preservation programs, including the process of recommending properties for nomination to the National Register;
- L. Perform any other functions that may be designated by resolution or motion of the city council.

CITY OF EUREKA

Section 157.03 (Authority and Responsibilities of Historic Preservation Commission).

- A. In addition to the responsibilities conferred by other provisions of this chapter, the Historic Preservation Commission shall:
 - 1. Review applications to alter or demolish all or part of any structure which is located on a designated property under §§ 157.04 and 157.05 of this chapter.
 - 2. Adopt maximum times for its historic preservation review, which if exceeded, may be treated as causing automatic HPC approval or HPC disapproval.
- B. The HPC shall, to the extent it deems action appropriate, have the authority to:
 - 1. Negotiate with owners of properties having special characteristics for, and may recommend to the City Council the approval of, contracts to restrict the use of such property and to retain such characteristics.

2. Establish and maintain a list of structures, other physical features, sites, and areas considered deserving of official recognition although not given regulatory protection. The purposes of the list shall be to recognize the merit of and encourage the protection, enhancement, perpetuation, and use of such structures, other physical features, sites, and area. For these purposes, the Commission may authorize such steps as it deems desirable, including but not limited to the issuance of certificates of recognition and the authorization of plaques.
3. Carry out or assist studies and programs designed to identify and evaluate structures, other physical features, sites, and areas which are worthy of preservation.
4. Inspect and investigate structures, other physical features, sites, and areas which may be worthy of preservation.
5. Consider methods other than those described above for encouraging and achieving preservation of worthy structures, other physical features, sites, and areas, including exploring means of financing the restoration or maintenance thereof.
6. Make appropriate recommendations on the general subject of preservation to the Planning Commission, City Council, other public and private agencies and bodies, and the general public.

CITY OF GLENDALE

Section 2.76.100 (Powers and duties generally).

The historic preservation commission shall have the power and it shall be its duty to perform the following acts:

- A. To consider and recommend to the city council additions to and deletions from the register of historical resources;
- B. To keep current and publish a register of historical resources;
- C. To make recommendations to the planning commission, and the city council on amendments to the historic preservation element of the city general plan;
- D. To grant or deny applications for permits for demolition, or major alterations of historical resources;
- E. To grant or deny appeals from decisions of the director of planning and the permit services administrator as specified in Section 15.20.030 of this code;
- F. To encourage public understanding of and involvement in the unique historical, architectural and environmental heritage of the city through educational and interpretative programs;
- G. To explore means for the protection, retention and use of any historical resource, historic district, or potential historical resource or district;
- H. To make recommendations to the city council on applications for properties to be included in the property tax incentives program which may be subject to historic property contracts as set forth in Section 15.20.070 of this code;
- I. To encourage private efforts to acquire property and raise funding on behalf of historic preservation; however, the commission is specifically denied the power to acquire any property or interest therein for or on behalf of itself or the city;
- J. To recommend and encourage the protection, enhancement, appreciation and use of structures of historical, cultural, architectural, community or aesthetic value which have not been designated as historical resources but are deserving of recognition;
- K. To encourage the cooperation between public and private historic preservation groups;

- L. To advise city council and city boards and commissions as necessary on historic preservation issues;
 - M. To render decisions on design review applications affecting designated historical resources pursuant to Section 30.16.820;
 - N. To perform any other functions that may be designated by resolution or motion of the city council.
-

FINAL REVIEW AUTHORITY

Another important issue closely related to the scope of the reviewing body's power is the question of where final authority should rest for designating structures and reviewing permit applications. In many communities, final decision-making authority rests with the preservation review body, while in other jurisdictions that body makes a recommendation to a planning commission or city council, which makes the final decision. Under California's broad enabling authority, local governments have wide leeway in where they place final decision-making authority, and the choices may be difficult.

- One approach, perhaps the least attractive to preservationists, is to have the local law grant the preservation commission advisory authority only regarding designations and permit reviews, and vest no absolute power to deny demolition permits in either the preservation commission or the legislative body. The City of Burbank, California, has adopted this approach, which, while providing for close political control over preservation and limiting restrictions on owners who may want to demolish their historical resources, is not as aggressive in protecting historical resources as some preservationists might like.
- A second approach is to split authority between the preservation commission and the local legislative body. For example, in both the California cities of Alameda and Davis, the preservation commission makes decisions on permit reviews (though its decisions can be overridden by appealing to the local legislative body). The legislative body makes decisions on designations (with appeal to the courts), with only advisory input from the preservation commission. This model, more acceptable to preservationists because of the balance it strikes among conservation goals, property rights, and political control, is common throughout the country and has been upheld regularly by the courts.¹⁴
- Another option is to vest final review authority over designations and permit reviews with the preservation commission, with appeal to the city council or to the courts. From a preservation point of view, this approach is most attractive because, to a certain extent, it removes preservation from the political arena and

¹⁴ See, e.g., *City of New Orleans v. Pergament*, 198 La. 852, 5 So.2d 129 (1941); *Maher v. City of New Orleans*, 516 F.2d 1051 (5th Cir. 1975); *900 G Street Associates v. D.C. Department of Housing and Community Development*, 430 A.2d 1387 (D.C. App. 1981); and *Friends of Sierra Madre v. City of Sierra Madre*, 25 Cal.4th 165, 172 n. 3, 105 Cal.Rptr.2d 214, 19 P.3d 567 (Cal. 2001) (Upholding Sierra Madre Ordinance No. 1036).

allows local commissions to forbid demolition according to prescribed standards and procedures. Courts also have upheld uniformly this type of ordinance around the country. In California, the cities of Berkeley and Eureka have adopted this approach.

- Finally, some communities might assign some preservation-related responsibilities to other entities altogether, such as a design review commission. For example, in Pasadena, California, the Cultural Heritage Commission (CHC) has responsibility for most preservation review in the city, but the Design Review Commission (DRC) handles design review in the downtown preservation district. Also, for city-owned properties, the CHC serves in an advisory capacity to the DRC.

If other entities exist besides the preservation commission, such as a design review body, then the community should think carefully about the relationship between the multiple entities and ensure that there are no duplicative reviews that may unnecessarily add time and costs to the development review process. The jurisdiction of each entity should be carefully distinguished from the other entities (e.g., by geography or by type of project). The sequence of decision-making should be coordinated to prevent contradictory decisions. In California, local governments increasingly are moving toward fewer boards, rather than more, to avoid these types of potential complications.

If strong preservation controls are to be exercised by the preservation commission, then local elected officials almost inevitably will want final review authority over designations and permit applications to rest with the local legislative body, the mayor, or with a planning commission or similar body that has a broader view of community development. Preservationists may have to choose between having stronger controls exercised by a less sympathetic body or weaker controls vested in a friendly preservation commission. There are pros and cons to either approach. If the local planning commission or zoning board is put in charge of making final decisions, then preservationists may find that it is more difficult to get historical resources listed or that the review body occasionally allows demolition or site development that a more preservation-oriented body might reject. Yet the occasional reversal on appeal to another board may be worthwhile to preservation advocates if the alternative is vesting limited powers – perhaps authority only to delay demolitions rather than veto them – in a preservation commission.

In most instances, a good case can be made for establishing final review authority in a separate preservation commission with specific expertise and the time to devote to preservation programs. Moreover, as discussed earlier, for a local government to qualify for certain federal historic preservation programs and funding and to assert authority over local National Register nominations, the community must establish a preservation commission with adequate authority to designate historic districts, review proposals for alteration within a district, and protect significant structures.

In terms of vesting a preservation commission with final review authority, there are practical aspects to keep in mind as well. Is there sufficient expertise, or are there enough willing citizens available in the community to establish yet another volunteer commission, particularly in smaller towns? If an existing body, such as the planning commission, is given authority over historical resources, will these added duties overburden it? Who will do staff work for the review body? Would staff from a planning or zoning commission be sympathetic to preservation goals? Should the review body concern itself only with major alterations or demolitions, or is greater control warranted?

DISCLOSURE OF PECUNIARY AND PERSONAL INTERESTS

People are often appointed to preservation commissions because they have some special expertise (i.e., architectural training, real estate experience, or legal knowledge) that should be helpful to the commission in making decisions. But the use of this expertise, and the past affiliations that are often part of such expertise, raise several interesting legal issues to which commissioners should be sensitive.

Occasionally, members of the preservation commission will have a pecuniary or personal interest in a case before the commission. What if a commissioner has a direct pecuniary interest in a case, perhaps through a partnership with the developer applying for a demolition permit? Almost universally, the commissioner should disqualify himself or herself in such situations. But that is the easy case.

What about cases in which the interest is only indirect – for example, when a commissioner owns nearby property that might appreciate in value if a big, new high-rise office building is allowed in a historic area? That question is a difficult one. In several zoning cases around the country, courts have invalidated zoning decisions because of the possibility of a conflict of interest.¹⁵ Commissioners should be very careful to disclose any potential direct or indirect gain or loss that could flow from a commission decision.

Where a potential conflict of interest may be perceived but the commissioner has no tangible interest at stake, disclosure and affirmation of unbiased decision-making is still important. What if a commissioner, because of a past affiliation – say, the presidency of a local private preservation advocacy group – is perceived to have an inherent bias against, or for, a particular proposal? Should that person be disqualified? Generally not, unless the commissioner cannot keep an open mind and is not willing to consider evidence supporting a contrary position and to make a finding on the record presented. Present activity with local groups actively supporting or opposing a particular case

¹⁵ For an example, see *Buell v. City of Bremerton*, 495 P.2d 1358 (Wash. 1972), striking down a local zoning decision because the chairman's property might increase in value as a result of the zoning. A recent California case involved the City of Torrance, where several council members had received campaign contributions from an opponent of a proposed conditional use permit before the board; *Breakzone Billiards v. City of Torrance*, 97 Cal.Rptr.2d 467,477 (the court held that recusal by the council members was not required because each had stated their decision would not be affected by the contribution and the court found no indication that the decision-maker's impartiality was tainted).

before the commission will raise more questions and potential challenges to the commissioner's ability to vote in an unbiased manner; therefore disqualification or recusal may be appropriate in cases of active affiliation with a party in interest.

A related, common disclosure issue is whether commissioners can base decisions on personal knowledge or expertise. For example, if an architect knows from long years of study and personal experience that a proposed development in a historic district is not compatible with the character of the district and that alternative designs are possible, can such knowledge form the basis for a negative decision? Similarly, can a commissioner make a personal visit to a historical resource that an owner wants to demolish and base his decision on impressions from that visit? Generally, the answer to both of these questions is "yes." A decision can be based on personal knowledge and expertise, provided that knowledge is noted in the record.¹⁶

¹⁶ For a sampling of cases in support of this position, see *Ohio Bell Telephone Co. v. Public Utilities Commission*, 301 U.S. 292 (1937); and *Russo v. Stevens*, 7 App. Div. 2d 575, 184 N.Y.S.2d 981 (1959).

SECTION 4: PROCEDURES AND CRITERIA FOR DESIGNATING HISTORICAL RESOURCES

What types of historical resources should be protected, and how? Should the ordinance consider both individual historical resources and also historic districts? Should distinctions be made to reflect different levels of archaeological, historical or architectural significance? Who should receive notice of proposed historic designations? This section discusses the basic issues regarding surveys and studies to identify historic resources for planning as well as designation purposes, designation procedures and criteria. Other related topics that are covered include owner consent; designation of interiors; and alternatives to designation, such as conservation districts.

SURVEYS AND STUDIES

The most effective preservation ordinances are supported by thorough, methodical studies and surveys of the community's archaeological and historic resources. In the landmark *Penn Central* case, the Supreme Court pointed out the importance of background surveys and studies, stating that the "function...of identifying properties and areas of historical and architectural importance is critical to any landmark preservation effort." Historic building surveys provide information for a variety of local government purposes. They are a key element in making preservation planning complementary with development goals. Such surveys help to evaluate the impact of new development. They enable planning decisions to be made against a preservation background. They are useful in developing special planning tools, heritage tourism initiatives, pre-disaster mitigation plans and incentives. By making information available early in the project planning process, such surveys help the review process to operate more efficiently.

Resources of potential historical significance should be surveyed and the archaeological, architectural or historical significance of individual resources and districts documented before designation takes place. Surveys and studies regarding what is important for the community to preserve are often critical as they may help to counter any argument that the act of designating a resource is arbitrary and capricious.

Ideally, experienced professionals will conduct such surveys, but, in smaller communities especially, volunteer efforts should suffice, particularly when they draw on the extensive expertise available through state historic preservation offices, the federal government, universities, and preservation organizations such as the National Trust for Historic Preservation. The key is to maintain high standards in documentation. Helping to bolster the defensibility of its ordinance, Colton, California, defines "survey" in a way that provides guidance regarding documentary standards:

Survey is the accepted method of systematically studying historic resources. It includes a physical description and a photograph of each historic resource, legal information from title or assessment records, statements of significance according to the criteria in this ordinance, and a statement of any threat to the integrity or continued existence of the resource. The information for each resource is recorded on a survey sheet.

Some California jurisdictions require or recommend at least an informal, “windshield” survey for a property to be determined eligible for designation. For example, the Burbank Municipal Code contains this provision:

Windshield survey. The City Planner shall maintain an inventory of potentially significant historic places, structures, or improvements. The purpose of this inventory is to identify properties, improvements, or structures which may warrant further research for the purposes of establishing historical significance.¹⁷

Using the survey as a guide, the community then should choose carefully those individual resources, neighborhoods or districts it believes worth preserving. Attention to detail in the survey and designation stages will pay dividends later on. As an illustration, the Colorado Supreme Court struck down a preservation ordinance that designated the entire city as a historic district on the ground that, in practice, the local commission treated areas within the district differently, thus indicating that district boundaries should have been drawn with greater precision.¹⁸

Once a community has completed its initial survey and designated landmarks and districts, it should ensure that the survey is periodically reviewed and updated. Resources that were overlooked the first time around may be discovered, or some that were consciously omitted may assume a new significance. What a community considers unworthy of protection may change over the course of only a few years. For this reason, many ordinances contain provisions similar to those found in the Ventura County, California, ordinance, requiring that the survey be “periodically” updated.¹⁹

It takes time to gather essential documentation, develop historic contexts and complete survey fieldwork. When owners of potential historical resources catch wind of such activity, some may react by rushing to city hall for a demolition permit. The answer may be for the local government to enact a development or demolition moratorium during the study period. Moratoriums have been upheld in the historical resource preservation context.²⁰

The importance of conducting historical resource surveys before designation occurs cannot be overestimated. Local officials will look to such surveys for guidance when presented with development applications that affect historical resources. Also, some landowners may challenge designations and permit denials. Courts will scrutinize the actions of preservation commissions in such cases and will examine relevant background materials such as historic resource surveys. Fortunately, courts show deference to local designations in most instances in which the locality has made an

¹⁷ Burbank, California, Municipal Code, § 31-928(a)(1).

¹⁸ *South of Second Associates v. Georgetown*, 580 P.2d 807 (Colo. 1978).

¹⁹ County of Ventura, California, Code of Ordinances, § 1364-11 (Surveys).

²⁰ *City of Dallas v. Crownrich*, 506 S.W.2d 654 (Tex. Civ. App. 1974) (city successfully argued that a 60-day development moratorium was essential to protect landmarks while the city was formulating a preservation plan).

honest effort based on the information before it. Indeed, designations probably will withstand judicial scrutiny even if credible supporting evidence and documentation are produced after the fact at trial. The local government's determination carries with it a presumption of validity and local governments must take care that this presumption is not squandered. (There are, however, from a few courts, some rumblings of discontent about eleventh-hour attempts by local governments and preservationists to designate a historical resource, thereby thwarting demolition or alteration permitted under the then existing law.)

Any sort of survey, amateur or professional, will reinforce the local government's position that its action has a rational basis. However, while it may be best to conduct professional surveys of historic resources before designation, they are not a legal requisite. There is no constitutional requirement that a survey be performed prior to designation if the local government can prove at trial that the designated structure or districts of architectural or historic significance at issue is defined by a valid local ordinance.

Finally, it should be noted that inclusion of an individual building, structure, site or district in a survey of potentially eligible historic resources is not the same as designation. A survey is only the first step toward affording a structure or district protection under an ordinance.²¹ While under CEQA a property included in a survey with a certain status assigned to it is presumed to be a historical resource, which must be considered by a decision-maker, the survey itself provides no formal protection, as does an ordinance.

CRITERIA FOR DESIGNATING HISTORICAL RESOURCES

The goal of a comprehensive preservation program should be to consider the full range of resources which represent the community's history including historic and prehistoric archaeological resources and cultural landscapes as well as the built environment. Historic signage and streetscapes may also warrant consideration and protection. California's communities have identified a wide range of resources that qualify for historical designation. In addition to numerous residential subdivisions and landmark commercial buildings designated throughout the state, communities have designated such unusual resources as a trailer park in Los Angeles (typical of the emergence of the city's car culture in the 1920s). Clear criteria for historical designation are a crucial aspect of a successful preservation ordinance.²² Recognizing that there are a variety of reasons for designation (e.g., aesthetic, historic, social, cultural, or economic, among others), courts traditionally have given local communities great latitude in deciding what

²¹ See, *Citizens for Responsible Development v. City of West Hollywood*, 39 Cal.App.4th 490, 504, 45 Cal.Rptr.2d 917 (Cal. App. 1995) (characterizing an inventory of potentially historic properties as "an over inclusive list... never, in any way, intended to constitute a final determination" as to actual historic value).

²² For a general discussion of basic survey and designation standards in California, see the seminal case of *Bohannon v. City of San Diego*, 30 Cal.App.3d 416, 106 Cal. Rptr. 333 (Cal. App. 1973). See also the more recent case of *League for Protection of Oakland's Historic Resources v. City of Oakland*, 52 Cal.App.4th 896, 903, [60 Cal.Rptr.2d 821,] (Cal. App. 1997), regarding the importance of a historical resources survey in the protection of a historic Montgomery Ward building in Oakland.

resources should be designated. Deference to the designation decision of a local community is based on the presumption that reasonably clear criteria are articulated prior to government action, and then applied by an expert body or by a legislative body on the advice of a qualified preservation commission.

An effective preservation ordinance must do more than just state that the preservation commission can designate structures of, for instance, "historical merit." The ordinance should give meaning to such key terms. For example, the model ordinance described by the National Trust for Historic Preservation defines the standard of "historical and cultural importance" as:

- (1) has significant character, interest or value, as part of the development, heritage or cultural characteristics of the City, State or Nation; or is associated with the life of a person significant in the past; or
- (2) is the site of an historic event with a significant effect on society; or
- (3) exemplifies the cultural, political, economic, social or historic heritage of the community.

The National Trust standard is not elaborate, but it is comprehensible to both owners and judges. Where an ordinance lacks the detail exemplified by this model ordinance, the local preservation commission should consider adopting its own guidelines to augment and explain the ordinance standard.

The State of California has established designation criteria for the California Register of Historical Resources. While there is no requirement that local governments adopt the same criteria for their own designation programs, there are substantial advantages in doing so. In particular, the California Register and National Register of Historic Places criteria are considered in CEQA and Section 106 evaluations; thus, local criteria that match the standard state and federal criteria are more likely to be relevant to environmental reviews conducted under CEQA and Section 106 (CEQA reviews are discussed in more detail later in this manual).

The California ordinances excerpted below identify very specific standards for designation, with various types of notable resources eligible for designation. In the City of San Jose, for example, unique engineering or architectural innovations may trigger designation. In the City of Redondo Beach, the function of a property as a wayfinding feature could permit designation.

**CALIFORNIA CODE EXCERPTS:
CRITERIA FOR DESIGNATING HISTORICAL RESOURCES**

CITY OF SAN JOSE

Section 13.48.110 (Procedure for Designation of a Landmark).

H. Prior to recommending approval or modified approval, the historic landmarks commission shall find that said proposed landmark has special historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature, and that its designation as a landmark conforms with the goals and policies of the general plan. In making such findings, the commission may

consider the following factors, among other relevant factors, with respect to the proposed landmark:

1. Its character, interest or value as part of the local, regional, state or national history, heritage or culture;
2. Its location as a site of a significant historic event;
3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;
4. Its exemplification of the cultural, economic, social or historic heritage of the city of San Jose;
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the city of San Jose;
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.

CITY OF REDONDO BEACH

Section 10-4.201 (Designation Criteria).

For the purposes of this chapter, an historic resource may be designated a landmark, and an area may be designated an historic district pursuant to Article 3 of this chapter, if it meets one or more of the following criteria:

- A. It exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering, or architectural history; or
- B. It is identified with persons or events significant in local, state or national history; or
- C. It embodies distinctive characteristics of a style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or
- D. It is representative of the notable work of a builder, designer, or architect; or
- E. Its unique location or singular physical characteristic(s) represents an established and familiar visual feature or landmark of a neighborhood, community, or the City.

The standards above can be contrasted with those at issue in a case from another state in which courts invalidated historic designation because basic designation criteria were vague or absent entirely. In *Texas Antiquities Commission v. Dallas County Community College District*,²³ the Texas Supreme Court was asked to stop demolition of several state-owned structures under a state law that automatically designated and protected all state-owned buildings of "historical interest" as state archaeological landmarks. The court, troubled by the state statute's failure to define what "historical interest" meant,

²³ 554 S.W.2d 924 (Tex. 1977).

even though it had such power under the state statute, struck down the automatic designation on the grounds that such generalized language was overly broad and vague:

...“historical” includes all of the past; “interest” ranges broadly from public to private concerns and embraces fads and ephemeral fascinations. All unrestorable structures ordinarily hold some nostalgic tug upon someone and may qualify as “buildings...of historical...interest” upon the basis of the statute now before us. We are unconvinced that we should renounce the settled law of Texas that the legislature may not delegate its powers without providing some criteria or safeguards.

In the context of historical resources, the courts may recognize in this and similar cases the historic and aesthetic merits of buildings or an area in question but will typically be compelled to uphold designation of historical resources only where clear standards exist. Without standards in a local ordinance or state regulation, courts are put in the position of having no basis to formulate a decision supportive of preservation law. Under California law, where a clear process and clear standards exist, courts will tend to uphold decisions of the local authority.²⁴

Generally, designation standards should not be hard to draft. There are several important points, however, that an ordinance drafter should consider. First, some commissions tend to define “historic” in terms of how old a building is. This is an inflexible approach that has serious shortcomings. There is merit to making age one factor among others in determining “historic” status, but some ordinances strictly prohibit designation unless a building is a predetermined age, typically over 50 years old. Such a standard runs the risk of eliminating a number of worthy historical resources from protection (some important Modernist architecture in California is barely 50 years old, for example). Of greater concern, a uniform age standard as a requisite to designation may prevent federal certification of the local ordinance for federal tax credit and other benefits. The federal government has denied certification when designation was predetermined by a qualifying age requirement of greater than 50 years, on the ground that the effects of alteration or demolition can best be evaluated on a case-by-case basis independent of age.

Buildings do not have to be of extraordinary significance to be protected. In one New York case, the opponents of a designation action argued that there was “no evidence to suggest that the Meeting House is of extraordinary architectural distinction or that it was ever the scene of any noted historical event or the residence of any noted personage.”

²⁴ In *Foundation for San Francisco’s Architectural Heritage v. City and County of San Francisco*, 106 Cal.App.3d 893, 165 Cal.Rptr. 401 (Cal. App. 1980), the state appeals court held that, despite listing of the City of Paris Building as a State Historical Landmark and listing on the National Register of Historical Places, the lack of local listing, after appropriate review of a designation proposal by the appropriate City of San Francisco boards, precluded an action to compel designation on the local registry. *Cf., Novi v. City of Pacifica*, 169 Cal.App.3d 678, 215 Cal.Rptr. 439 (Cal. App. 1985) (California courts permit delegation of broad discretionary power to local governments, including tolerance for a certain amount of vagueness within local ordinances).

The court in this case was not persuaded that designation should be such an exclusive category:

While relevant, this is not determinative. If the preservation of landmarks were limited to only that which has extraordinary distinction or enjoys popular appeal, much of what is precious in our architectural and historical heritage would soon disappear. It is the function of the Landmarks Preservation Commission to ensure the continued existence of those landmarks that lack the widespread appeal to preserve themselves.²⁵

Courts also have recognized the need to regulate non-landmark buildings that serve as a setting, or act as a buffer, for more significant structures. For example, in one famous case the North Carolina Supreme Court explicitly rejected the notion that protection could be extended only to historical resources:

It is widely recognized that preservation of the historic aspects of a district requires more than simply the preservation of those buildings of historical and architectural significance within the district. In rejecting a similar challenge, the District Court in *Maher v. City of New Orleans*, 371 F. Supp. 633, 663 (E.D. La. 1974), observed: "just as important is the preservation and protection of the setting and scene in which structures of architectural and historical significance are situated."²⁶

In another example, the Maryland Court of Appeals rejected the argument that local commissions are powerless to regulate development around historical resources:

The whole concept of historic zoning "would be about as futile as shoveling smoke" if . . . because a building being demolished had no architectural significance a historic district commission was powerless to prevent its demolition and the construction in its stead of a modernistic drive-in restaurant immediately adjacent to the State House in Annapolis.²⁷

This same reasoning is applicable to grounds or gardens that might surround and complement a historical resource. If the surrounding landscape is not designated, then an owner may subdivide a historically significant site and sell off or build on the undeveloped part. This may present difficult problems even in a historic district where the preservation review body has power to control new construction, and it may completely hamstring a commission in dealing with a freestanding landmark. An owner may be able to subdivide the site and claim a "taking" of his property under the U.S. or state constitution if development is not allowed on the former grounds or garden. By coordinating its designation powers with the local subdivision ordinance, the preservation commission may avoid this problematic situation.²⁸

²⁵ *Society for Ethical Culture v. Spatt*, 415 N.E.2d 922 (N.Y. 1980).

²⁶ *A-S-P Associates v. City of Raleigh*, 258 S.E.2d 444 (N.C. 1979).

²⁷ *Coscan Washington, Inc. v. Maryland-National Capital Park & Plan. Comm'n*, 590 A.2d 1080 (Md. App. 1991).

²⁸ See, *Victorian Realty group v. City of Nashua*, 534 A.2d 381 (N.H. 1987)

DESIGNATION PROCEDURES: NOTICE AND HEARING REQUIREMENTS

The preservation ordinance must set forth a procedure to ensure that an owner of a property proposed for historic designation is given notice of the proposed designation and an opportunity for a hearing. Generally, written notice to interested parties and an opportunity to present relevant facts at an informal hearing are all that are required when designating a structure or district – something less than what may be necessary when an application to alter, demolish, or construct (all of which raise economic issues) is involved.²⁹

Unlike, for example, state code provisions regarding subdivision and annexation,³⁰ the enabling legislation for historic preservation ordinances in California does not specifically identify notice and hearing requirements. However, general California guidelines for local government action are applicable to historic preservation. The Brown act prescribes the open meeting process for local jurisdictions. In addition, both counties and municipalities in California are subject to Section 50022 of the Government Code, which sets forth general notice and hearing requirements for ordinances of all types. Other notice and hearing requirements for preservation actions stem from CEQA Guidelines, Sections 15072 and 15073. In general, where a CEQA process is required for a preservation action, notice of the proposed action must be provided to all interested parties, as well as the public and various governmental “trustee” agencies (See detailed discussion later in this manual).³¹

The Davis, California, ordinance provides an example of notice and hearing language very similar to proven language in zoning and subdivision ordinances (See excerpt below.). At paragraph (C) the ordinance specifies that a public hearing is required before the preservation commission, and stipulates that the timing of the hearing must be within ninety days of the filing of an application. Paragraphs (E) and (H) describe the notice procedure, with a standard mailing radius of three hundred feet around the subject property.

Most historic preservation commissions, such as the Davis commission, operating today not only meet but also exceed constitutional and statutory notice and hearing requirements.³² There are several pitfalls, however, that review bodies should avoid. In

²⁹ See, *Weinberg v. Whatcom County*, 241 F.3d 746 (9th Cir. 2001). Note that the exact standards for notice and hearing to some extent hinge on the question of whether a designation proceeding before the preservation commission is legislative or adjudicatory in nature. See, *Cohan v. City of Thousand Oaks*, 30 Cal.App.4th 547, 555, 35 Cal.Rptr. 782 (Cal. App. 1994), quoting, *Horn v. County of Ventura*, 24 Cal.3d 605, 596 P.2d 1134. Insofar as a designation proceeding creates a zoning overlay district, it may be compared to zoning and rezoning actions that have been held legislative acts under California law; see, *Arnel Development Co. v. City of Costa Mesa*, 28 Cal.3d 511 (1980).

³⁰ The Annexation Act, codified at Government Code § 35313, requires notice and hearing of certain affected property owners; see, *McMillen v. City of El Monte*, 180 Cal.App.2d 394 (Cal. App. 1960).

³¹ *Fall River Wild Trout Foundation v. County of Shasta*, 70 Cal.App.4th 482, 491, 82 Cal.Rptr.2d 705 (Cal. App. 1999) (insufficient notice under CEQA for action related to zoning amendment).

³² See generally, *Board of Regents v. Roth*, 408 U.S. 564 (1972) (discussing due process and the

some communities, listing of individual resources and districts on the National Register of Historic Places has preceded local designation. While current federal regulations require that the owner of a prospective National Register resource be given notice and an opportunity to be heard, in the past a hearing was not always held, simply because National Register listing had little real impact on the owner's rights. In a few instances, such listing has been the basis for local designations, which may take place without a new hearing, even though controls imposed pursuant to the local ordinance might be more far-reaching than those imposed under National Register listing. In those cases, the owner should be given notice and an opportunity to be heard to avoid a possible challenge on due process grounds. If a community is considering local designation at the time of the National Register listing, then it might utilize concurrent notice and hearings.

The local government should ensure that written findings of fact are prepared at the time of the designation decision. The Glendale, California, designation procedure, for instance, specifically requires written findings of fact that correspond to designation criteria enumerated elsewhere in the ordinance.³³ Typically, findings for designations need not be as elaborate as those for applications to alter or demolish or for new construction. A summary of the evidence presented, a recitation of standards applied, and a brief statement of the reasons why the commission took the action it did is sufficient.

Step-by-step guidelines for local commissions, beginning with the designation of historical resources, act as a mechanism to prevent, or at least minimize, the risk of procedural challenges to actions of the preservation commission. In varying amounts of detail, each of the ordinances excerpted below demonstrates an effective approach to procedural issues in general.

**CALIFORNIA CODE EXCERPTS:
NOTICE AND HEARING REQUIREMENTS**

CITY OF DAVIS

Section 40.23.070 Designation Process.

Historical resources, outstanding historical resources, and historic districts shall be designated by the city council upon the recommendation of the historical resources management commission in the following manner:

- A. Initiation of Designation. Designation of a historical resource, an outstanding historical resource, or an historic district may be initiated by the historical resources management commission, by any resident of Davis, or by the owner of the property that is proposed for designation. Applications for designation originating from outside the commission must be accompanied by such historical and architectural information as is

availability of temporary delays of hearings in emergencies).

³³ Glendale, California, Code of Ordinances, § 15.20.060(d). Section 15.20.060(e) requires that the city council approval be recorded with the County recorder, assuring the preservation of a written record of the findings and designation.

- required by the commission to make an informed recommendation concerning the application, together with the fee set by the city council.
- B. List. The commission shall publish and transmit to all interested parties a list of proposed designations, and shall disseminate any relevant public information concerning the list or any site, structure, or area contained therein.
 - C. Public Hearing. The commission shall schedule a public hearing on all proposed designations, whether originating with the commission or with another party. If an application for designation originates from outside the commission, the public hearing shall be held within ninety days of the secretary to the commission's receipt of a complete application.
 - D. Work Moratorium. While the commission's public hearing or the city council's decision on the commission's recommendation is pending, the city council upon the commission's recommendation may declare a work moratorium. During the moratorium, any work that would require an alteration permit if the improvement were already designated a historical resource or outstanding historical resource or if it were already located in a historic district shall not be carried out. The work moratorium will end upon the earlier of the city council's decision on the proposed designation, the moratorium termination date designated by the city council, or one hundred eighty calendar days event from the date of commencement of the moratorium.
 - E. Notice. In the case of a proposed designation of a historical resource or outstanding historical resource, notice of date, place, time, and purpose of the hearing shall be given by first class mail to the applicants, owners, and occupants of the property, and to property owners within three hundred feet of the property, at least ten days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls or in other ownership records, and shall be advertised once in a daily newspaper of general circulation at least ten days in advance of the public hearing. The commission and city council may also give other notice, as they may deem desirable and practicable. In the case of a proposed historic district, notice of the date, place, time, and purpose of the hearing shall be given by first class mail to the applicants, owners, and occupants of all properties within the proposed district, and to all property owners within three hundred feet of the proposed boundary, at least ten days prior to the date of the public hearing, using the name and address of the owners as shown on the latest equalized assessment rolls or in other ownership records, and shall be advertised five consecutive days in a daily newspaper of general circulation at least ten days in advance of the public hearing.
 - F. Commission Recommendations. After the public hearing, but in no event more than thirty days from the date set for the public hearing, the commission shall recommend approval in whole or in part or disapproval of the application for designation in writing to the city council, setting forth the reasons for the decision.
 - G. Approval of Commission Recommendations. The city council, within sixty days of receipt of the commission's recommendations concerning proposed designations, shall by ordinance approve the recommendations in whole or in part, or shall by motion disapprove them in their entirety. If the city council approves a proposed designation, notice of the city

council's decision shall be sent to applicants and owners of a designated property. Notice shall also be sent to the building official and to the secretary to the commission.

- H. Failure to Send Notice. Failure to send any notice by mail to any property owners where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed designation.
- I. Amendment or Rescission. The commission and the city council may amend or rescind any designation of an historical resource, an outstanding historical resource, or historic district in the same manner and procedure as are followed for designation.

CITY OF SAN JOSE

13.48.130 Notice of Amendment or Rescission of Designation.

- A. When a landmark has been designated as a landmark and when property has been designated as an historic district, such designation may thereafter be rescinded or amended by the city council. The procedure for amending or rescinding the designation shall be the same as that for designation of a landmark or a district in the first instance. The council may rescind a designation in whole or in part when it deems it to be in the public interest to do so. The council may amend a designation when the findings required for designation in the first instance may be made with respect to the amended designation. B. The city clerk shall promptly notify the owners of the affected landmark or property by mailing a certified copy of the resolution amending or rescinding the designation, and shall cause a copy of the appropriate resolution to be recorded in the office of the recorder of Santa Clara County.

The clerk shall also send a certified copy of said resolution to the director of planning, the director of neighborhood preservation, director of public works, the building official and the occupant of the property.

CITY OF GLENDALE

15.20.060 Procedure for Designation or Deletion of Historical resources.

- A. Prior to city council consideration for designating or deleting historical resources or districts, written consent shall be obtained from the property owner(s) of record;
- B. The city council shall set a public hearing prior to designating or deleting a historical resource or district;
- C. The city clerk shall give notice of the public hearing which notice shall contain the date, time and place of the hearing, the general nature of the proposed designation or deletion and the street address or legal description of the property involved. Said notice shall be published once in the official newspaper of the city at least ten days before the date of the hearing. Said notice shall be mailed, postage prepaid, at least ten days before the date of the hearing to affected property owners and all persons, shown on the last equalized assessment roll as owning real property located within a radius of three hundred feet of the exterior boundaries of the property which is subject to the proposed designation or deletion;

- D. The city shall make findings of fact and determinations in writing pursuant to the criteria set forth in Sections 15.20.050 and 15.20.055 of this code; and
 - E. The decision of the city council shall be made by resolution which shall be recorded with the Los Angeles County recorder.
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DESIGNATION PROCEDURES: OWNER CONSENT

A number of existing preservation ordinances allow property owners to object to historic designation, potentially exempting those properties from the community's preservation program. Most owner consent provisions take one of three basic approaches. Some give owners an absolute veto over designation if they file a written objection, an approach currently reflected in federal designations for the National Register of Historic Places.³⁴ A variation prohibits designation without affirmative, express consent of a historic property owner or a majority of owners in a proposed district. These two approaches are generally thought of as involving "owner consent." A third variety requires a supermajority vote of the governing body for designation if an owner or majority of owners object – so called "owner objection" or "protest" provisions.

Courts have held in some cases that such provisions amount to an unlawful delegation of decision-making authority by the legislative body to individual landowners (i.e., an individual landowner can "opt out" of the regulatory process, thereby usurping the legislative power that is lawfully held only by the governing body).³⁵ In an analogous situation—zoning ordinances—virtually no jurisdiction allows an individual property owner to opt out of or veto a zoning classification because such a provision would render the system ineffective.

Practical experience around the country shows that it is difficult to craft an effective historic preservation program if owner consent is required. Inevitably, the city will lose significant structures or deleterious alterations will be made. However, in some cases, practical and political considerations may dictate that owner consent provisions be present in order to ensure passage of a preservation ordinance.

In one of the few reported preservation case rulings on the validity of an owner consent requirement, a state court held that the provision violated state planning law. That case involved an Oregon state planning law that required local governments to inventory historical resources and develop a plan regarding their preservation and use. The local owner consent provision was ruled illegal because it subordinated all historical

³⁴ 16 U.S.C. 470a(a)(6) (2001).

³⁵ *Cary v. City of Rapid City*, 559 N.W.2d 891, 895-96 (S.D. 1997), *Eubank v. Richmond*, 226 U.S. 137 (1912); see also, *East Bay Asian Local Development Corp. v. State of California*, 24 Cal.4th 693, 730, 740 n. 6, 743-745 (Cal. App. 2000) (Werdegar, dissenting. Discussing, in the context of religious land uses, the legal problem of delegating to individual owners the authority to make a legislative finding). *But see*, *Di Lorenzo v. City of Pacific Grove*, 260 Cal.App.2d 68, 72 (Cal. App. 1968) (addressing owner consent in the context of free speech versus property rights), *quoting*, *Buxorn v. City of Riverside*, 29 F.Supp. 3 (S.D. Cal. 1939).

resources to individual property owner desires. The court ruled that state law required the inventorying and designation of all significant structures; competing use issues could be dealt with after designation, not before.

Generally, courts in general zoning cases dealing with consent provisions have expressed similar qualms. Because consent provisions tend to eliminate any involvement by the local legislative body, most courts, including the US Supreme Court, have invalidated such provisions as standardless and unlawful delegations of legislative power to private property owners. However, owner objection provisions in which a majority of objecting landowners can trigger a need for a supermajority vote have generally been reviewed more favorably. The rationale is that such provisions do not usurp legislative authority, or that they only allow property owners to waive an otherwise express legislative restriction enacted for their benefit.

The challenge is to balance preservation goals and the needs of the community as a whole with the need to bring landowners into the preservation process in a positive fashion. The vast majority of preservation ordinances nationwide wisely avoid any type of owner consent provisions. But, again, they may sometimes be necessary for political reasons. The two ordinances excerpted below illustrate two attempts by California communities to address this issue. The Burbank requires owner consent prior to designation (in fact, it requires owner consent even prior to staff research on a property to determine eligibility). The Monterey ordinance distinguishes between its most important historical resources (called “landmarks”) and other historical resources; the former (called H-1 resources) may be designated without owner consent, while the latter cannot.

**CALIFORNIA CODE EXCERPTS:
OWNER CONSENT**

CITY OF BURBANK

Section 31-928 (c) Procedure for Designation – Heritage Commission Review and Recommendation

...Prior to setting the item on its agenda, the City Planner shall obtain the owner's written consent to the historic designation of the property, structure, or improvement and his/her agreement to abide by the historic preservation regulations of this Division through the execution of a covenant in a recordable form....

CITY OF MONTEREY

Section 38-75 H-1 Landmark Overlay Zoning

A. Description. H-1 zoning is intended to identify and protect the most important historical resources in the City, generally including properties with statewide, national, or international historic significance where that significance would be recognized outside of the City, and the City is steward of those resources are preserved for its citizens and a larger public. The City recognizes its responsibility for preserving these resources for a national and international public, and the H-1 zone may be established without owner consent in order to

fulfill that responsibility. The H-1 zone includes a strong series of incentives to support and encourage preservation of the historical resources.

INTEGRATING HISTORIC PRESERVATION INTO THE ZONING ORDINANCE

Many California local governments integrate their historic preservation regulations into the local zoning ordinance by creating “historic preservation overlay zones.” Overlay zoning is a tool that layers an additional set of regulations on top of the regulations that apply in the underlying zoning district, when special conditions are present. Overlay districts often are used to regulate special use areas (e.g., around airports) or to protect sensitive environmental resources (e.g., floodplains).

Overlay zoning also can be used to provide special protection and regulation for historical resources, either individually or in historic districts. Historic overlay districts typically provide for special review of modifications to designated historical resources, yet the underlying densities and dimensional requirements and use restrictions typically continue to apply.

One of the principal advantages of using overlay zoning to protect historical resources can be a strengthened linkage between preservation and other community land-use objectives, since the preservation efforts become more closely integrated into the overall development review process. This is an especially helpful approach where the preservation ordinance is administered by the same personnel as other development review functions.

A prominent example of the overlay zone approach is the City of Los Angeles, where the HP (Historic Preservation Overlay Zone) District is set forth in Section 12.20.3 of the zoning ordinance. The city already has designated over a dozen HPOZ’s and more are pending approval. Each designated HPOZ has its own Historic Preservation Board (a somewhat complex approach) that evaluates application for certificates of appropriateness within the HPOZ and also performs other functions, such as updates of historic resources surveys. Other California jurisdictions presently using the overlay zoning approach include the Town of Los Gatos, the City of Tustin, and the City of Pasadena.

Though overlay zoning typically adds an additional layer of protection for historic resources, it is also an opportunity to provide special accommodations and special forms of zoning relief that may provide additional preservation incentives to owners of these resources. For example, Los Gatos allows existing uses not otherwise permitted in the underlying zoning districts to continue in its Landmark and Historic Preservation Overlay Zones, subject to certain conditions.³⁶

³⁶ Los Gatos, California, Code of Ordinances, § 29.80.230(c).

SPECIAL CONSIDERATIONS IN ESTABLISHING REGULATED AREAS

Interiors

Most preservation commissions spend the bulk of their time reviewing proposals to alter the exterior of historic structures. As a result, there are few reported legal cases dealing with the increasingly controversial issue of regulating interiors. Nevertheless, such regulation is authorized under California law, and some communities, such as the cities of Pasadena and Vallejo, do regulate the interiors of select historic properties. Such regulation most typically involves large, often monumental-scale historical resources, such as churches, movie theaters, opera houses, and mansions. For example, in the 1980 San Francisco case involving the City of Paris building, a proposal to demolish an historical building was validly conditioned on the preservation of an interior rotunda.³⁷

Pasadena's ordinance allows for preservation commission review of interior changes to any significant public building:

The commission shall be notified in writing by the director of community development of any plans to materially alter or redecorate exterior or interior features of any significant buildings owned by the City or any other public entities so that the commission may study such plans and make recommendations to the director of community development...³⁸

Similarly, Santa Monica's ordinance allows for limited regulation of interiors in historically significant public buildings:

For the purpose of this chapter, any interior space regularly open to the public, but not limited to, a lobby area may be included in the landmark designation of a structure or structures if the Landmarks Commission, or the City Council upon appeal, finds that such public spaces meet one or more of the criteria listed under Section 9.36.100.³⁹

Colusa's ordinance does not differentiate between public and private properties, limiting its regulation of interiors instead on the basis of the likely impact of a proposal to exterior features:

No person shall do any work listed below without first obtaining a permit from the Heritage Preservation Committee.

- 1.) Exterior alterations to a designated landmark.
- 2.) Interior alterations that would affect the exterior of a designated landmark...⁴⁰

³⁷ *Foundation for San Francisco's Architectural Heritage v. City and County of San Francisco*, 106 Cal.App.3d 893, 903, 165 Cal.Rptr. 401 (Cal. App. 1980).

³⁸ Pasadena, California, Code of Ordinances, § 2.46.150; see also, Berkeley, California, Code of Ordinances, § 3.24.100(B)(1).

³⁹ Santa Monica, California, Code of Ordinances, § 9.36.110.

⁴⁰ Colusa, California, Code of Ordinances, § 28.05; cf. San Diego, California, Municipal Code, § 143.0220(b) (interior modifications generally exempt from historic review if they will "not adversely affect the special [historic] character").

For the most part, courts have supported designation of interiors of buildings as well as exteriors where a commission has been given the authority to designate and regulate "structures" or "buildings."⁴¹ The reasoning in *Sameric Corp. v. City of Philadelphia*⁴² is typical. There the court stated that the commission had authority to regulate "buildings, structures, sites, and objects" and that a building by definition had to create shelter. In order for a building to create shelter, it must have an interior. The court thus concluded that the ordinance must be aimed at protecting interiors as well as exteriors, particularly where the interior design reflects the same architectural elements as the exterior. The problem tackled by this court could be avoided by simply mentioning interiors in the enabling legislation.

Courts have generally applied the same standards in reviewing interior designations as they have to exteriors. Thus, in *Weinberg v. Berry*,⁴³ the court rejected out-of-hand a claim that no designation of a building interior could serve a public purpose unless the government requires public access. Moreover, the court found that since there were conceivable situations in which designation of a building interior would not constitute a taking, the act was not unconstitutional on its face, as claimed by the plaintiff.

Publicly Owned Property

Many communities struggle with the issue of publicly owned property. Some of the thorniest preservation disputes involve preservation commissions facing off against other public institutions, such as state colleges, county hospitals, or even other local agencies. When the government becomes a developer, it often attempts to ignore the rules that govern private enterprise. If it is politically feasible to do so, an effective local preservation ordinance should include a provision subjecting all owners of designated buildings, public or private, to its review procedures. If that is not realistic, the preservation commission should minimally have the authority to comment on the development plans of government agencies.

From a legal perspective, dealing with other agencies of the same local government is the easiest matter. If the local legislative body duly passes a preservation law requiring all local agencies under its jurisdiction to comply with historical resources review procedures, there is little question they must do so. (However, note that the power of a local government to give full effect to historic preservation by restricting access to and use of its public rights-of-way is limited under California law.)⁴⁴

But it is more difficult to require county or state institutions to follow the requirements of municipal preservation laws. Judicial decisions from around the country are split on this

⁴¹ See, *Schneider Partnership v. Department of Interior*, 693 F. Supp. 223 (D.N.J. 1988). Two California cases that have addressed the interiors of historical resources include: *Citizens for Responsible Development v. City of West Hollywood*, 39 Cal.App.4th 490, 45 Cal.Rptr.2d 917 (Cal.App. Dist.2 10/23/1995); and *Barron v. City of Selma*, No. F041147 (Cal.App. Dist. 5 10/03/2003).

⁴² 558 A.2d 155 (Pa. App. 1985).

⁴³ 634 F. Supp. 86 (D.D.C. 1986).

⁴⁴ *Citizens Against Gated Enclaves v. Whitley Height Civic Ass'n.*, 23 Cal.App.4th 812, [28 Cal.Rptr.2d 451,] (Cal. App. 1994) (City of Los Angeles may not gate historic area and allow access only to residents for the purpose of protecting the neighborhood from crime and vandalism).

point. If the opposing public entity is another local government, or branch thereof (for example, a county hospital), then courts have generally required that the local preservation law be observed.⁴⁵ If the public institution involved in the dispute is not coequal but rather a state agency, the problem is more difficult. A majority of courts in other jurisdictions hold state agencies immune from local regulation, the rationale being that state agencies operate under a higher authority than do local governments and they need not comply unless the state legislature specifically has made them do so.⁴⁶ In California, the applicability of CEQA to state government action tends to incorporate consideration of, though not expressly requiring adherence to the letter of, local preservation ordinances in many projects under both local and state jurisdiction. Detailed discussion of CEQA is found later in this manual.

Berkeley's ordinance illustrates how one community has chosen to regulate and review certificates of appropriateness for publicly owned properties. The ordinance contains a provision that acknowledges that some projects may be beyond its jurisdiction, in which case only authority to comment is sought:

In the case of any publicly owned property on a landmark site, or in an historic district which is not subject to the permit review procedures of the city, the agency owning the property shall seek the advice of the commission prior to approval or authorization of any construction, alteration or demolition thereon, including the placement of street furniture, lighting and landscaping; and the commission in consultation with the design review committee of the planning commission, in appropriate cases, shall render a report to the owner as expeditiously as possible, based on the purposes and standards of this chapter.⁴⁷

Sacramento specifically exempts projects on publicly owned property from the formal review process under its preservation commission, but requires that an informal administrative procedure follow the same criteria:

(a) General: Except as provided below, the provisions of this Chapter requiring hearing(s) before the Board or the Preservation Director shall not apply to Development Projects involving, or requests for demolition or relocation of, Landmarks, Contributing Resources or non-Contributing Resources that are owned by the City of Sacramento; provided that the City Council or other decision-making body, entity or person shall apply the same standards, and make the same findings, required by this Chapter for private projects.

⁴⁵ *Pittsfield Charter Township v. Washtenaw County*, 633 N.W.2d 10 (Mich. Ct. App. 2001); *Mayor of Annapolis v. Anne Arundel County*, 316 A.2d 807 (Md. 1974).

⁴⁶ *County of Santa Fe v. Milagro Wireless, LLC*, 32 P.3d 214 (N.M. Ct. App. 2001); *State of Washington v. City of Seattle*, 615 P.2d 461 (Wash. 1980). *But see, City of Santa Fe v. Armijo*, 634 P.2d 685 (N.M. 1981) (favoring a balancing approach versus a strict immunity approach); *City of Temple Terrace v. Hillsborough Association for Retarded Citizens, Inc.*, 322 So.2d 571 (Fla. App. 1975), *aff'd*, 332 So.2d 610 (Fla. 1976).

⁴⁷ Berkeley, California, Code of Ordinances, § 3.24.320; *see also*, § 3.24.100(B) (review for publicly owned property).

(b) Exception: The Council may, by resolution or ordinance, provide for review of City projects by the Board or the Preservation Director, in which case the Board or the Preservation Director shall make recommendations to the City Council or other decision-maker.⁴⁸

The situation where the interests of a federal agency overlap with a local preservation ordinance is a difficult one. Under the Supremacy Clause of the U.S. Constitution, the federal government is generally immune from local land-use regulations.⁴⁹ However, Congress has enacted several laws directing federal agencies to examine and avoid where possible the adverse environmental impacts of their actions or undertakings. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. Section 106 gives equal consideration to properties that are included in the National Register of Historic Places and those that are not listed but meet National Register criteria. Also, Section 4(f) of the 1966 Department of Transportation Act requires transportation officials to give paramount consideration to the protection of historic properties in planning their projects.

Federal environmental laws such as the federal Coastal Zone Management Act (CZMA) apply to some of the most highly developed and densely populated areas of California. The CZMA, which requires state and local land-use plans to include a preservation element, requires that federal developments on private land in coastal areas covered by an approved plan be consistent with state and local land-use enactments to the extent feasible.

While neither Section 106, nor Section 4(f), nor CZMA, nor environmental impact laws such as the National Environmental Policy Act (NEPA) will absolutely stop project proposals that are adverse to historic preservation, they are useful in giving the local preservation review body some leverage in dealing with federal agencies, especially when review criteria and/or designated properties under the local ordinance are specifically intended to reference or overlap with federal preservation criteria or designated properties.

It is important to ensure that federal projects in local communities are coordinated with local historic preservation efforts to the extent possible. Problems can arise when, for example, federal funds (e.g., Community Development Block Grant funds) are distributed to a local community, and the Section 106 or environmental review of the expenditure of those funds is administered by the local community development or economic development department, which fails to communicate with the planning staff or historic preservation staff. Better coordination can help ensure that the expenditure of the funds is consistent with local preservation policies and regulations.

⁴⁸ Sacramento, California, Code of Ordinances, § 32.05.512 (City Projects).

⁴⁹ U.S. Constitution, Article VI, cl. 2.

Telecommunication Facilities

Within the past ten years, the federal government has asserted control over wireless communication towers, cellular antennae, and other land-use components of the modern telecommunication system. The most significant source of this federal power is the Telecommunications Act of 1996,⁵⁰ which is intended to reduce various types of barriers and introduce more competition into the telecommunications industry. Section 704 of the Act⁵¹ expresses federal intent regarding land-use regulation. Preemption of local zoning and other land-use controls is of a limited nature.⁵² The two most important stipulations of federal law for preservation ordinances are, first, the instruction that local government “shall not prohibit or have the effect of prohibiting the provision of wireless services,⁵³ and, secondly, the requirement that “substantial evidence” in a written record must accompany a decision to deny a permit for a telecommunication facility.⁵⁴

The primary concern of preservationists is that modern electronic equipment will detract from the historic and aesthetic character of historic structures and sites. In most cases, local government should be able to preserve the integrity of historical resources and still comply with federal telecommunication laws. Court holdings to date indicate that government interference in this will draw scrutiny from the courts,⁵⁵ yet reasonable regulations that do not effectively prohibit the provision of wireless services will be upheld.⁵⁶ Design review and design standards, especially mitigation measures (such as requiring antennae to be located on existing tall structures, use special materials, and/or employ stealth design) have been upheld as reasonable costs of preservation regulation, yet still in compliance with the federal Telecommunications Act.⁵⁷

One common approach in local ordinances is to distinguish between cell towers, which tend to be large and relatively limited in their potential for modification for historical consistency, versus stand-alone antennae, which are smaller and easier to locate or disguise in a manner that minimizes visual impact. For instance, the Tallahassee, Florida, preservation ordinance expressly prohibits cell *towers* within 250 feet of historic districts or historic structures, while allowing an *antenna* in these areas by special

⁵⁰ Pub. L. 104-104, 110 Stat. 56 (1996).

⁵¹ Codified at 47 U.S.C. § 332(c).

⁵² 47 U.S.C. § 332(c)(7)(A) (“Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.”)

⁵³ 47 U.S.C. § 332(c)(7)(B)(i)(II).

⁵⁴ 47 U.S.C. § 332(c)(7)(B)(iii).

⁵⁵ *AT&T Wireless PCS, Inc. v. Winston-Salem Zoning Board of Adjustment*, 172 F.3d 307, 313 (4th Cir. 1999) (federal requirement to analyze impact to telecommunications in every case would invite Tenth Amendment scrutiny under the U.S. Constitution); *Patterburg Cellular Partnership v. Board of Supervisors*, 205 F.3d 688 (4th Cir. 2000) (Niemeyer, J., concurring: Section 704 of the Telecommunications Act violates the Tenth Amendment).

⁵⁶ Brian R. Manuel, “Protecting Historic Landscapes Against the Proliferation of Cell Towers,” 19 *Preservation L. Rep.* 1001, 1028-30 (2000).

⁵⁷ *Omnipoint Communications Enterprises, L.P. v. Warrington Township*, 63 F.Supp.2d 658 (E.D. Pa. 1999).

review.⁵⁸ This approach protects historical resources and views yet also allows wireless services to be provided in historic areas.

The federal government also has a responsibility to consider the effects of telecommunications facilities on historical resources. Section 106 of the National Historic Preservation Act requires the Federal Communications Commission (FCC) to consider the effects of its activities, including granting permits and licenses for telecommunications facilities, on historic properties. The FCC has delegated to license applicants the responsibility for initiating Section 106 consultations with the California State Historic Preservation Officer. The Office of Historic Preservation has standardized the procedures to be following by applicants requesting SHPO Section 106 reviews of FCC undertakings. Application forms and background materials are available at the OHP website.

Religious Land Uses

Churches, synagogues, and other religious structures are commonly some of the oldest developed sites in California, and historic preservation laws therefore affect religious properties in many communities. Local regulation of religious uses has become increasingly contentious in recent years, as increased numbers of “mega-churches” attract thousands of worshipers and have potentially significant land-use impacts. Religious landowners have responded to land-use regulations of all varieties, including historic preservation, by asserting that religious properties are subject to special protections under the United States Constitution and state constitutions. This has resulted in an assortment of federal and state laws and court decisions that provide a complicated set of requirements that local governments must consider when drafting preservation ordinances. This section provides a brief overview of current developments in the law relating to religious land uses and historic preservation, as well as some legal background at both the federal and California levels.

Conflicts between religion and land-use regulation often center on the two religion clauses of the U.S. Constitution⁵⁹ and analogous provisions of state constitutions.⁶⁰ The First Amendment’s establishment clause prohibits government action that endorses or advances religion; the free exercise clause prohibits certain government action that interferes with religion. Case law regarding these religious protections is highly nuanced, providing few categorical rules.

Religious institutions in California have relied on a variety of legal theories to maintain control of their property and resist preservation controls, and are likely to continue this course.⁶¹ Given the contrast of settled legal authority for local governments to regulate

⁵⁸ Tallahassee, Florida, Telecommunication Ordinance, Chapter 27, § 18.7.

⁵⁹ U.S. Constitution, Amendment I (“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof”).

⁶⁰ See, California Constitution, Article I, Section 4 (Establishment Clause and No Preference Provision); California Constitution, Article XVI, Section 5 (government may not aid religion).

⁶¹ See, *First Presbyterian Church v. City of Berkeley*, 59 Cal.App.4th 1241, 69 Cal.Rptr.2d 710 (Cal. App. 1997) (preemption of local preservation ordinance by California’s Ellis Act, Government Code § 7060

historical resources and the unsettled state of law with regard to religious properties (discussed below), communities should continue to regulate all institutional property owners uniformly, placing the burden on religious land users to challenge regulations they consider unconstitutional. In other words, local communities should subject religious institutions to the same preservation laws as other institutional uses that have similar land-use impacts, such as schools.

FEDERAL LEGAL BACKGROUND

In 2000, the U.S. Congress passed the Religious Land Use and Institutionalized Persons Act (RLUIPA),⁶² partly to try and clarify the rules applicable to religious land uses. In short, RLUIPA prohibits federal, state, and local governments from imposing or implementing any land-use regulation that places a “substantial burden” on religious exercise, unless the regulation furthers a compelling governmental interest and it is the least restrictive means of furthering that interest.

To qualify for relief under RLUIPA, a religious property owner must first establish that the use is substantially burdened by a government regulation. Generally, courts are more receptive to arguments that religion is substantially burdened if the regulation directly creates a burden on the actual practice of the religion, as opposed to related activities such as day care. Provided a substantial burden is legally established, the burden then shifts to the government to show that its regulation serves a compelling government interest. In the land-use area, compelling government interests may include, for example, protecting the public safety, or controlling traffic and noise. According to congressional records, the intent of RLUIPA is not to provide a blanket exclusion for all churches from zoning and preservation laws: “This Act does not provide religious property owners immunity from land-use regulation.”⁶³ In fact, in many previous instances, a substantial burden has been found *not* to exist, and almost never exists if a religious institution asserts a substantial burden on the basis of financial impact alone.⁶⁴

Congress attempted to craft RLUIPA in such a way as to avoid the shortcomings that led to the demise of previous, similar statutes. For example, RLUIPA is limited in its application to areas in which Congress received specific testimony regarding an alleged pattern of discrimination against religious uses, especially smaller churches. Yet, despite such efforts, the constitutionality of RLUIPA is being vigorously tested in the courts, and thus its precise impacts on local regulation of religious land uses remains unclear.⁶⁵ If RLUIPA survives legal challenge, it may have the effect of prohibiting land-use laws that totally exclude or unreasonably limit religious assemblies or practices

[which authorizes landlords to remove residential rental properties from the rental housing market], gives church litigant the right to demolish an historic structure of merit used as rental property).

⁶² Pub. L. 106-274; 114 Stat. 803, 42 U.S.C. § 2000cc, *et seq.*

⁶³ 146 Cong. Rec. S7774, 7776 (daily ed., July 27, 2000).

⁶⁴ See, *Rectors, Wardens & Members of the Vestry of St. Bartholomew’s Church v. City of New York*, 914 F.2d 348 (2nd Cir. 1990).

⁶⁵ “Congress Enacts Religious Land Use Law,” 19 Preservation L. Rep. 1111, 1120, 1121 (2000).

within a jurisdiction.⁶⁶ It may also determine whether religious uses may be subjected to standard land-use reviews, such as conditional use permit procedures, when not applied to similar types of facilities, such as schools.

Because the applicability of RLUIPA is currently uncertain, it appears that many California religious institutions and local governments are settling their disputes instead of committing to a trial and possible appeal.⁶⁷

CALIFORNIA LEGAL BACKGROUND

Prior to the passage of the federal RLUIPA statute, California had previously passed a law that specifically allows religious institutions to exempt themselves from historic preservation laws. The exemption provisions within that law, California Senate Bill A.B. 133 (1994), are codified at California Government Code §§ 25373(c),(d) and 37361(c),(d). The full text of the pertinent part states:

(b): [Regulatory control of historical resources] shall not apply to noncommercial property owned by any association or corporation that is religiously affiliated and not organized for private profit, whether the corporation is organized as a religious corporation, or as a public benefit corporation, provided that both of the following occur:

- (1) The association or corporation objects to the application of the subdivision to its property.
- (2) The association or corporation determines in a public forum that it will suffer substantial hardship, which is likely to deprive the association or corporation of economic return on its property, the reasonable use of its property, or the appropriate use of its property in the furtherance of its religious mission, if the application is approved.

While this statute establishes a procedure for obtaining a special religious exemption, it is not an automatic entitlement: A religious organization must formally object to a preservation regulation applied to its property and demonstrate a “substantial hardship” in order to remove itself entirely from the scope of historic preservation regulation. (In anticipation of such objections, California local governments might consider adopting procedures in their local ordinances to define “substantial hardship” for purposes of enforcing this law, and requiring religious institutions to demonstrate why their hardships are different than those suffered by other parties.)

In the California Supreme Court case of *East Bay Asian Local Development Corp. v. State of California*, decided in 2000, the constitutionality of this law was challenged on two grounds, specifically that the exemption endorses or assists religious institutions in derogation of the establishment clause of the United States and the California

⁶⁶ *Id.* at 1118; *See, Foothills Christian Ministries v. City of El Cajon*, No. 01 CV 1197 JM (S.D. Cal. 2001) (growing church claimed no compelling state interest could justify denial of a conditional use permit that would allow it to move into a larger, commercially zoned space).

⁶⁷ For information on current cases, presented by an organization supporting RLUIPA, see <http://www.rluipa.com/cases/>.

Constitutions,⁶⁸ and secondly that the exemption violates the “no preference provision” of the California Constitution. On both counts, the *East Bay Asian* court found no constitutional problems, reasoning that “these exemptions simply free the owners to use the property as they would have done had the property not been designated an historic landmark.”⁶⁹

In addition to the statutory exemption procedure, some California communities have attempted to incorporate specific protections for religious uses into their preservation ordinances. For example, Vallejo, California, includes an accommodation for the interior of certain religious structures in its ordinance:

Exceptions to Certificate of Appropriateness for Religious Properties – Nothing herein shall prevent any changes in the interior features of a church where such changes are necessitated by changes in the liturgy, it being understood that the appropriate church officials, as owner of the property, are the exclusive authority on liturgy and are the decisive parties in determining what architectural changes are appropriate to the liturgy; provided, that when it is proposed to make changed necessitated by changes in liturgy, the church officials shall communicate the nature of the change to the commission in order to receive comment and, if required, the commission shall issue a certificate of appropriateness. However, prior to the issuance of any certificate, the commission and church officials shall jointly explore such possible alternative design solutions as may be appropriate or necessary in order to preserve the interior features of such church.

However, the necessity of any such accommodation for religious uses is the basic subject of the ongoing litigation discussed above. (In any case, the interiors of religious facilities are a special case where development regulations and religion may conflict, and raise distinct concerns that do not exist in other provisions of land-use and historic preservation ordinances generally applicable to religious land use.)

Beyond regulatory control of historically significant religious properties, the ability of local governments to exercise condemnation powers against religious landowners is, as of this writing, also an area of active litigation in California.⁷⁰ Though condemnation power is not commonly contemplated within the scope of an historic preservation ordinance, it is a legally acceptable strategy to protect historical resources⁷¹ and the

⁶⁸ *East Bay Asian Local Development Corp. v. State of California*, 24 Cal.4th 693, 13 P.3d 1122 (Cal. 2000), *cert denied*, 121 S.Ct. 1735 (2001); United States Constitution, Amendment I; California Constitution, Article I, § 4.

⁶⁹ *East Bay Asian*, 24 Cal.4th at 721. The issue of improper delegation of legislative power was not reached by the court, though discussed by the dissent, as discussed above in this report with regard to owner consent provisions.

⁷⁰ See, *Cottonwood Christian Center v. Cypress Redevelopment Agency*, No. SA CV 02-60 DOC, Aug. 6, 2002 (C.D. Cal. 2002) (preliminary injunction granted when City attempted to condemn church-owned land planned for commercial redevelopment in an undeveloped business district).

⁷¹ Robert Wright and Morton Gitelman, *Land Use in a Nutshell*, West Publishing, St. Paul, Minn. (2000), 270; See, *Prentiss v. City of South Pasadena*, 15 Cal.App.4th 85, 93, 18 Cal.Rptr.2d 641 (Cal. App. 1993) (noting that the California historic preservation enabling statutes authorize eminent domain).

outcome of condemnation cases may have some bearing on the standards applied to takings claims made under other historic preservation regulation.

ALTERNATIVE FORMS OF PROTECTION: CONSERVATION DISTRICTS AND CONSERVATION EASEMENTS

To supplement their existing historic district regulations, many communities have created a second type of resource district called a “conservation district.” Geared to preserving the character rather than the historic fabric of existing neighborhoods, conservation districts are being considered or have been adopted in a growing number of jurisdictions across the United States as alternatives to more stringent historic district regulations. Cities as varied as Dallas, Texas; Omaha, Nebraska; and Cambridge, Massachusetts have all adopted some form of conservation districts. Many conservation districts have been implemented for areas that fall short of meeting the criteria for a local, state, or national historic designation, but nevertheless have important cultural, visual, or other significance. Some are intended as step-down, buffer, or transition areas immediately surrounding a protected historic district. Others are directed at preserving the residential character of a neighborhood, maintaining a unique community center, or emphasizing an important cultural element of a community.

Conservation districts are typically established as either base districts or overlay districts within the local zoning ordinance. One California example is the Fresno Residential Modifying District:

"R-M" RESIDENTIAL MODIFYING DISTRICT. The "R-M" Residential Modifying District is an overlying zoning district which may be applied to the AE-5, R-1-B, R-1-A, R-1-AH, R-1-E, R-1-EH, and R-A districts, and is intended to provide special land development and street development standards which will create, protect, and maintain designated areas, streets, and adjacent properties as residential areas of exceptional public and private value by reason of their location, form, extent of trees and other vegetation, public improvements, and private improvements. All regulations for this district are deemed necessary for the protection of arcadian landscape quality and value and for the securing of the health, safety, and general welfare of owners and users of the private property and of pedestrian, equestrian, and vehicular traffic.⁷²

The use of conservation districts to protect neighborhood character is particularly effective when the applicable zoning regulations include specific standards addressing those characteristics. The City of Sacramento, for example, has an extensive system of special zoning provisions to protect neighborhood character. A number of conservation districts are established in the zoning ordinance, cited as “Special Planning Districts” and including both residential and non-residential areas.⁷³ The purpose and intent statement of the Alhambra Corridor area, at Chapter 17.104.010 of the City code is excerpted below.

⁷² Fresno, California, Code of Ordinances, § 12-242.

⁷³ Sacramento, California, Code of Ordinances, § 17.92, et seq. (Special Planning Districts).

The Alhambra Corridor area consists of properties located between 26th and 34th Streets from the Southern Pacific railroad mainline levee to the W/X Freeway. The district boundaries are identified on a map in Appendix A, set out at the end of this chapter. This area consists of a number of different neighborhoods and is intended to provide residential uses along with neighborhood related commercial uses in commercial districts. The plan is intended to assist in the preservation of the neighborhood scale and character along with providing additional housing opportunities in the area.

The city council further finds and declares that, given the history, nature and scope of recent development within the Alhambra Corridor, special rules are necessary to regulate nonconforming uses, and nonconforming buildings and structures, within the corridor. The non-conforming uses and nonconforming buildings and structures that currently exist within the corridor are generally compatible with the conforming uses that are permissible within the corridor. It is therefore appropriate to allow for the nonconforming uses to continue, and to allow for the buildings and structures to be rebuilt or replaced with buildings and structures of the same or lesser size and intensity.

The goals of the Alhambra Corridor SPD are as follows:

- A. Maintain and improve the character, quality and vitality of individual neighborhoods;
- B. Maintain the diverse character and housing opportunities provided in these urban neighborhoods;
- C. Provide the opportunity for a balanced mixture of uses in neighborhoods adjacent to transit facilities and transportation corridors;
- D. Maintain the neighborhood character of existing commercial neighborhoods while allowing for limited office to serve the medical complex in this area;
- E. Provide the opportunity for reuse and rehabilitation of heavy commercial and industrial neighborhoods to take advantage of close-in living while reducing the number of obsolete and underutilized buildings and sites.

The Alhambra Corridor provisions include detailed dimensional regulations, applicable to both conforming and non-conforming buildings. Sacramento also provides numerous other examples of both more and less intense regulation of conservation zones. For example, the Special Planning District established for the Central Business District includes a set of design guidelines and special procedures for development review.

In addition to conservation districts, the conservation easement is becoming increasingly popular as a tool for preserving natural and cultural resources. Conservation easements involve the acquisition of certain development rights by an organization seeking to preserve the character of a neighborhood or region. For example, a conservation easement for historic preservation might consist of an agreement between the owner and a city that an historic structure will not be demolished and will be maintained in good condition. The conservation easement is a real estate transaction and typically involves the creation of a covenant on the property under easement that will restrain any future development contrary to the intent of the easement. The conservation easement is possibly the most popular non-regulatory

approach to historic preservation, though acquisition of historic properties by stewardship organizations or users who agree to adaptive reuse is also an important approach to consider.

SECTION 5: PROCEDURES AND CRITERIA FOR ACTIONS SUBJECT TO REVIEW

Perhaps the most visible, and often most controversial, of powers exercised by preservation commissions is the review of applications for demolition or alteration of historical resources, or for new construction in historic areas (approvals for these actions are usually called *Certificates of Appropriateness* or COAs.) Applications to demolish historical resources often will engender heated arguments, bringing commissions face-to-face with the difficult task of juggling and balancing preservation goals with economic and political pressures.

Dealing with alteration proposals—often less controversial than demolitions but far more frequent—is no less difficult. The challenge in these cases is to encourage upgrading and continued maintenance of existing historical resources and to guide the process of change so that it is sympathetic to the existing character of the historic area. In all but a few historic areas, freezing things in time will be neither feasible nor desirable. Applications for new construction can be equally controversial, involving, for example, the construction of a larger new building in and around the “airspace” of a historic building.⁷⁴

This section discusses key issues surrounding the review of applications for development that affect historical resources.

DETERMINING THE APPROPRIATE LEVEL AND AMOUNT OF REVIEW

A key factor to consider for all types of resources is whether the community will have the discretion to deny a demolition or alteration proposal, as opposed to merely delaying a proposal. Many California jurisdictions allow their preservation commissions to *deny* alterations or demolitions to the community’s most important historic properties, rather than merely *delay* such projects, though some California communities still lack such authority.

Experience throughout the nation demonstrates that, without the ability to say “no” to proposed projects when necessary, a community will probably not have an effective preservation ordinance. Being able to turn down projects strengthens the preservation commission’s hand in negotiations with property owners, and is an approach that has been highly effective in other cities with strong preservation ordinances. Many communities with effective preservation programs, such as the City of Monterey, allow their preservation commissions to deny alteration projects and demolition proposals that would be incompatible with the goals of their preservation programs.

⁷⁴ See, *San Franciscans for Reasonable Growth v. City and County of San Francisco*, 189 Cal.App.3d 498, 234 Cal.Rptr. 527 (Cal. App. 1987) (building proposed in airspace of historic building occupied by various restaurants); similar proposals for high rise construction in air rights around significant historic structures can be seen near older churches in several major U.S. cities.

In order to ensure efficient use of time by both staff and the preservation commission, some cities adopt “tiered” review systems that graduate the level of review and regulatory control according to the significance of the resource. A higher level of review and control can be assigned over more significant properties, while correspondingly less review and control can be assigned to less significant properties. The preservation commission might be granted authority to deny demolitions of designated historical resources, yet merely delay demolitions of buildings that are not locally listed but are considered eligible for listing. A tiered system can improve efficiency and add predictability to the review process. On the other hand, many communities do fine by assigning the same level of review to all historical resources, provided that they have sufficient staff to administer the ordinance.

In determining what level of review to assign specific resources, California communities display a wide range of approaches. In Pasadena, for example, the preservation commission traditionally has been only able to deny projects involving a handful of individual properties in the city and in historic districts (though a recently adopted new ordinance expands this authority).

DRAFTING APPROPRIATE REVIEW STANDARDS

The review of certificates of appropriateness is governed by standards set forth in the preservation ordinance, which the preservation commission uses in deciding whether to approve the certificate. The process of setting standards is crucial not only from a legal standpoint, but also as a way for preservationists to evaluate where their preservation program is leading. What kind of development, if any, do they really want in the local historic area? How do they intend to evaluate proposed changes? What is the most efficient and fair method of administering proposed changes? What should be the relationship of the local standards to other historical resource regulations, such as the Secretary of the Interior’s standards?

As preservation ordinances demand more from landowners and become broader in scope, they are increasingly likely to be challenged in court on the validity of these review standards. Challengers may argue that the standards violate due process because they are vague and unclear. While court decisions in most areas of land-use law have been very favorable in upholding relatively broad review standards, fairness and regulatory efficiency dictate that local ordinances contain clear standards that result in predictable decisions by staff and review commissions and limit administrative discretion.

Communities can typically narrow broad review standards through the use of detailed criteria set forth in the ordinance or in background documents such as historical resource surveys. The typical preservation ordinance sets forth broad review standards for demolition or development of historic properties. However, setting standards for reviewing such applications is normally a trickier task than setting standards for making designations. Preservation ordinances attempt to ensure that a demolition will “not have an adverse effect on the fabric of the district” or that new construction not be

“incongruous,” but “in harmony,” with the “character,” “significant features,” or “atmosphere” of the area. The operative terms in determining the impact of a development or demolition proposal are to a degree subjective and need to be defined and limited in some fashion to give applicants reasonable notice of what is expected of them and to allow courts to judge the validity of the local decision. In his treatise on land-use planning law, Professor Norman Williams lists various considerations that might be used by a local commission in determining whether a proposed demolition or change is compatible with the historical resource:

- Mass — the height of a building, its bulk, and the nature of roof line;
- Proportions between the height of a building and its width (is its appearance predominantly horizontal or predominantly vertical?);
- Nature of the open spaces around buildings, including the extent of setbacks, the existence of any side yards (with an occasional view to the rear) and their size, and the continuity of such spaces along the street;
- Existence of trees and other landscaping, and the extent of paving;
- Nature of the openings in the facade, primarily doors and windows—their location, size, and proportions;
- Type of roof — flat, gabled, hip, gambrel, mansard, etc.;
- Nature of projections from the buildings, particularly porches;
- Nature of the architectural details—and, in a broader sense, the predominant architectural style;
- Nature of the materials;
- Color;
- Texture;
- Details of ornamentation; and
- Signs.

Not all these considerations will necessarily be relevant to every historical resource, but the list does suggest how broad review standards can be narrowed. Drafting adequate review standards is much less difficult in historic areas that have a distinctive style or character. A proposal to add a redwood railing in New Orleans’ Vieux Carré district is plainly at odds with the iron railings of historic buildings in the district. The distinctive characteristics of historic areas in New Orleans, Santa Fe, Nantucket, and other cities with strong identifying features provide examples of the features best used to define compatible development and measure the impact of proposals for new development. If a local ordinance does not contain such narrowing criteria, the preservation commission would be well advised to adopt them by way of regulation or informal review guidelines (assuming the commission has power to do so).

Many California jurisdictions have adopted generalized standards for review of certificate of appropriateness applications, consisting of a section about historic sites, another section about historic districts, and occasionally a third category devoted to

other special classifications of historical resources.⁷⁵ The language of the Davis code is typical of ordinances that maintain a broad standard of review:

In evaluating applications for alteration permits, the commission or the City Council upon appeal shall consider the architectural style, design, arrangement, texture, materials, color, and any other factors. The commission or the City Council upon appeal shall approve the issuance of an alteration permit for any proposed work only if it finds:

- (a) With regard to a historical resources or outstanding historical resources, the proposed work will neither adversely affect the exterior architectural features of the resource nor adversely affect the character or historical, architectural, or aesthetic interest or value of such resource and its site.
- (b) With regard to any property located within a historic district, the proposed work conforms to the prescriptive standards for the district adopted by the commission and does not adversely affect the character of the district.⁷⁶

The Davis ordinance also delegates authority to the preservation commission to “promulgate and publish” more specific standards “as are necessary to supplement the provisions of this article to inform property owners, tenants, and the general public of those standards of review by which applications for alteration permits are to be judged.”

Another approach to review standards is to reference another authority, such as the Secretary of the Interior’s Standards and Guidelines. San Diego makes use of such a reference in its ordinance, where compliance with the Standards and Guidelines may exempt a minor alteration proposal from other review.⁷⁷ (However, because the Standards and Guidelines are somewhat vague and imprecise, they should be used by the local community as a starting point for more tailored and precise standards.) Still another approach is to provide a blanket reference to the eligibility criteria of the state and national register programs, as Santa Monica does in its ordinance when it references proposals that do or do not:

...embody distinguishing architectural characteristics valuable to a study of a period, style, method of construction, or the use of indigenous materials or craftsmanship and [do or do not] display such aesthetic or artistic quality that it would not reasonably meet the criteria for designation as one of the following: National Historic Landmark, National Register of Historic Places, California Registered Historic Landmark, or California Point of Historic Interest.⁷⁸

⁷⁵ See, Los Gatos, California, Code of Ordinances, § 29.80.290 (including a third category for pre-1941 structures); Berkeley, California, Code of Ordinances, § 3.24.260(C) (including, at (C)(1)(c), a third category for structures of merit).

⁷⁶ Davis, California, Zoning Code, § 29-145.13 (Alteration Permit Standards of Review).

⁷⁷ San Diego, California, Municipal Code, § 143.0220(a).

⁷⁸ Santa Monica, California, Code of Ordinances, § 9.36.140(e)(1).

PROCEDURES FOR REVIEWING CERTIFICATES OF APPROPRIATENESS (COAs)

From a legal standpoint, the procedural considerations in reviewing applications for certificates of appropriateness are quite similar to those for designating historical resources. Basically, the historical resource owner must be given an opportunity to be heard, to present his or her case, and to rebut the opposing case, as discussed in the procedural section above regarding designation procedures. Commissions can help ensure fair, orderly hearings by making clear beforehand the rules that will govern their deliberations. Again, it is particularly important that the reviewing body gives reasons (or “findings of fact”) for its decision on applications for a certificate of appropriateness.⁷⁹

The main procedural elements that should be included in any local preservation ordinance include:

- The applicability of the review process and criteria (e.g., types of projects, any exemptions);
- The basic process (e.g., initiation, timing);
- Contents of an application;
- The criteria or source of criteria to be applied; and
- Any specific powers (e.g., conditional permit approval) deemed appropriate for the certification process.

The following excerpt from the Glendale preservation ordinance addresses many of these concerns.

No person shall demolish, remove, or make major alterations to any designated historical resource without first obtaining a permit. An application for such permit shall be filed with the permit services administrator who shall thereupon transmit same to the historic preservation commission. The historic preservation commission may require that the application for permit be supplemented by such additional information or materials as may be necessary for a complete review by the historic preservation commission. The commission may impose such reasonable conditions or restrictions as it deems necessary or appropriate on a case-by-case basis to promote or achieve the purpose of this code.⁸⁰

While some municipalities, like Glendale, use a common list of procedures and criteria for both alterations and demolitions, others use a heightened review for demolition proposals. For example, the ordinance of Danville, California, has separate provisions for alteration (§32.72.16) and demolition (§32.72.18). Each section has its own review criteria (such as alternative use strategies in cases of demolition), and also different timing -- there is a longer timeframe in demolition review to allow for potential

⁷⁹ Two cases that demonstrate the important role that is assigned to a complete set of findings and supporting evidence are *Figarsky v. Historic District of the City of Norwich*, 368 A.2d 163 (Conn. 1976) (successful appeal on the basis of extensive fact-finding in record of local review) and *Historic Green Springs, Inc. v. Berland*, 497 F.Supp. 839 (E.D.Va. 1980) (court critical of Secretary of Interior for lack of reasoned decision-making in record for designation).

⁸⁰ Glendale, California, Code of Ordinances, § 15.20.080(A) (Permit required for demolition, removal or major alterations of historical resources).

acquisition or relocation of an historic structure. Santa Cruz also has developed a separate procedure for demolitions (See excerpt below.).

Numerous California communities require a replacement building permit if a protected historical resource or contributing building in a historic area is proposed for demolition. For example, Section 15.20.080(B) of the Glendale Code of Ordinances, states that, “No permit to demolish a historical resource may be issued without the issuance of a building permit for a replacement structure or project for the property involved.” Also, some communities require evidence that funding is in place to ensure that replacement projects can actually be completed. Such requirements can be an effective means of ensuring that demolition does not occur until a replacement project is feasible and that new development is compatible with any surrounding historic context. However, such requirements also may require significant time and staff resources to effectively administer and enforce.

CALIFORNIA CODE EXCERPT:

PROCEDURES FOR REVIEWING CERTIFICATES OF APPROPRIATENESS

CITY OF SANTA CRUZ

Section 24.08.1012 (Demolition of Buildings Listed in the Historic Building Survey – Procedure).

1. Any person desiring to demolish a building listed on the Santa Cruz Historic Building Survey shall first file an application for a historic demolition permit with the planning department. Demolition of any such building may be approved only in connection with an approval of a replacement project. In case of a residential use, Part 14 of this chapter (Residential Demolition/Conversion) shall also apply.
2. The historic preservation commission shall hold a public hearing and shall take one of the following actions:
 - a. Approve Permit. The historic preservation commission may approve the historic demolition permit in conformance with the provisions of Part 14 of this chapter.
 - b. Approve Permit, Subject to a Waiting Period of Up to One Hundred Twenty Days to Consider Relocation/Documentation...
 - c. Continue for Up to One Hundred Eighty Days to Consider Designation as Landmark, or Other Alternatives to Demolition.
 1. During the continuance period, the historic preservation commission may investigate relocation of the building on site or modification of the building for future uses in a way which preserves the architectural and historical integrity of the building...
 2. During the continuance period, the historic preservation commission may initiate an application for a landmark designation for the building and/or site.
 - d. Deny Permit.

ALLOWING STAFF-LEVEL REVIEWS

To what extent, if any, should responsibilities under the preservation ordinance be delegated to full-time administrative staff, as opposed to the preservation commission or some other elected or appointed review body? Nationwide, it is extremely common for preservation commissions to delegate authority for minor decisions to professional staff. This often is done to streamline the review process and liberate the preservation commission's time to work on more long-range and/or controversial issues. For example, staff might be given the authority to approve certificates of appropriateness for minor alterations to designated buildings (e.g., window replacement).

The City of Danville delegates to the city staff a relatively large amount of authority for administering design reviews on regulated historic properties. This ordinance reflects an approach consistent with the notion that review by the commission is most effectively focused on controversial or questionable projects:

1. The Chief of Planning, or his or her designee, shall review the completed application within ten (10) working days after receipt. If the proposed work meets the minimum design standards in subsection 32-72.15, the Chief of Planning shall approve the application and notify the Heritage Resource Commission of such action.
2. If, in the judgment of the Chief of Planning, the proposed work does not meet the standards, the Chief of Planning shall forward the application to the Heritage Resource Commission for its review and determination. The Heritage Resource Commission shall make its decision within sixty (60) days after receipt of the application.⁸¹

Distinction between minor and major alterations also is seen in Palo Alto's ordinance:

A minor alteration shall be subject to review by the director for the purpose of providing cooperative and constructive information to the property owner about alternative methods of substantially complying with the Secretary of the Interior's Standards... A major alteration shall be reviewed by the historical resources board.⁸²

Delegation of review authority often is done in practice but not codified in the ordinance. One California community, for example, has for many years delegated a substantial amount of review under its preservation ordinance to its staff, probably as much as any other city in the country. Yet, until recently, that city's preservation ordinance did not explicitly authorize the type of staff-level review for minor actions that was taking place. This has now been addressed, however, through ordinance revisions.

The general rule for delegating authority from the preservation commission to staff is that responsibilities should not be delegated at random, but rather should be guided by detailed provisions included either in the ordinance or in formally adopted rules and regulations that are referenced in the ordinance.

⁸¹ Danville, California, Code of Ordinances, § 32-72.16 (Review and determination).

⁸² Palo Alto, California, Code of Ordinances, § 16.49.134.

In addition to delegating authority for minor project reviews to staff, many jurisdictions increasingly are choosing to delegate to staff the ability to grant minor modifications to certain standards, a process akin to a zoning variance, in order to streamline ordinance administration. This allows the staff, in reviewing development applications, to deal flexibly with unusual issues that may be addressed simply with minor modifications to existing standards. An administrative modification process can make the development review process more efficient and less time-consuming. Jurisdictions typically allow minor modifications if the deviation from ordinance requirements advances the goals and purposes of the ordinance requirements, is more or equally as effective in achieving the relevant standards from which the modification is granted, or relieves practical difficulties in developing a site for reasonable economic use.

In order to place bounds on the staff's discretion to approve such modifications, objective standards should be included that specify what may or may not be modified and the degree to which modifications may be granted. If certain types of standards are especially significant or controversial in a community, then staff-level modifications of those particular standards could be prohibited altogether. For example, the ordinance might allow staff to approve encroachments of up to a certain percentage in required setbacks, yet would prohibit entirely any modifications to sign regulations in historic districts.

Decisions to grant or deny modifications and other actions under a preservation ordinance, like other staff decisions, should typically be subject to appeal to a review board (e.g., a preservation commission or a Board of Zoning Appeals). The City of Davis makes the availability and mechanism for an appeal clear within the same section of its ordinance that authorizes the delegation of authority to staff:

The historical resources management commission is hereby given the authority to delegate certain minor projects to the city staff for review and approval or denial. The historical resources management commission shall establish guidelines for such projects to be reviewed by city staff. Appeals of city staff decisions shall follow the procedures established in chapter 40, article 40.37.⁸³

THE TAKINGS ISSUE IN PRESERVATION LAW

The Fifth Amendment to the U.S. Constitution prohibits the taking of private property for public use without just compensation. If the government physically occupies private property (such as to build a post office), then that action clearly qualifies as a taking and compensation is required. However, much current litigation focuses on whether regulations – such as preservation ordinances – can so affect a property's value as to effect a taking.

The U.S. Supreme Court has held that, if regulations deny an owner all reasonable economic use of his or her property, then they do constitute a taking and the offending governmental body is liable for monetary damages for the period during which the

⁸³ Davis, California, Code of Ordinances, § 40.23.080(B) (Alteration Permits).

regulations were applied.⁸⁴ If some economic use of a property is available, a takings claim is decided based on a case-specific factual inquiry, typically focusing on the nature of the government regulatory action and the landowner's investment-backed expectations.⁸⁵ Under these rules, well-drafted preservation ordinances rarely result in successful takings claims.

While the prospect of paying damages can be disconcerting to local regulatory authorities, the Supreme Court has also established a number of procedural requirements requiring a prospective developer to seek relief from the local government prior to filing a takings claim.⁸⁶

Determining When a Taking Occurs

The takings issue analysis plays out in a unique fashion in a preservation context, since preservation law is less concerned with use, bulk, and density issues and focuses more on protecting structures from demolition and on the aesthetic features of new construction. Thus, a key issue is typically whether an existing building constitutes a reasonable use of property, and if it does not, whether it might be renovated so that a reasonable return can be obtained. Similarly, with regard to new construction, the inquiry will focus not as much on the proposed use (for example, whether a parcel might be used for commercial instead of residential development as the locality desires) but whether the planned structure is compatible with existing buildings in a historic area. If it is not, the question is whether any compatible design is also economically feasible.

In terms of defining the threshold of a viable takings claim, several principles stand out from past litigation:

- Designation alone rarely creates a burden sufficient to sustain a takings claim.⁸⁷
- Regulatory takings are not found in reference to highest and best use, nor does a substantial diminution in value necessarily result in a taking.⁸⁸ Rather, the question is whether the preservation regulation denies all reasonable economic use of the property.
- Historic conditions provide the baseline for reasonable expectations of use of the property.⁸⁹

⁸⁴ *Lucas v. South Carolina Coastal Comm'n*, 505 U.S. 1003 (1992).

⁸⁵ *Palazzo v. Rhode Island*, 533 U.S. ___ (2001). *Tahoe-Sierra Preservation Council, Inc., et al. v. Tahoe Regional Planning Agency et al.* (U.S. Supreme Court Docket No. 00-1167, decided April 23, 2002).

⁸⁶ *See, Agins v. City of Tiburon*, 447 U.S. 255 (1980); *San Diego Gas & Elec. Co. v. City of San Diego*, 450 U.S. 621 (1981).

⁸⁷ *Historic Green Springs, Inc. v. Bergland*, 497 F.Supp. 839, 848-49 (listing on the National Register of Historic Places is not a taking).

⁸⁸ *William C. Haas & Co. v. City and County of San Francisco*, 605 F.2d 1117 (9th Cir. 1979), *cert. denied*, 445 U.S. 928 (1980) (reduction in allowable height from 300 to 40 feet, diminishing value from \$2M to \$100K is NOT a taking).

⁸⁹ *District Intown Properties Ltd. Partnership v. District of Columbia*, (D.C. Circuit, Case No. 98-7209, decided December 17, 1999) (reasonable investment-backed expectations not frustrated when property bought then subdivided then landmarked then deemed entitled to only development on one overall lot).

- A broad range of evidence and legal theories may be used to construct and defend a takings claim.⁹⁰

The most famous preservation case to litigate the takings issue was *Penn Central v. New York City*, in which Penn Central proposed building a 50-story skyscraper using air rights atop Grand Central Terminal, a designated historic landmark.⁹¹ The city turned down the application for a certificate of appropriateness to construct the skyscraper, deciding that the new building would so affect and change the exterior architecture of the landmark as to be inappropriate. The company appealed, arguing that the denial of the permit kept the company from using its air rights and thus was burdensome enough to constitute a taking. While a lower court agreed and held for the company, the U.S. Supreme Court reversed and upheld the denial of the permit. The bottom line in the case, according to the Supreme Court, was the fact that the property had not lost all reasonable economic value, since it could still be used as a train station.

Penn Central demonstrates the difficulties a landowner faces in establishing a takings claim: Regardless of the harsh economic and practical effects of a design control regulation – which the courts have made clear are treated no differently than any other land-use controls – it is very difficult to demonstrate that a regulation deprives a landowner of *all reasonable economic value* in his or her property.

Potential Procedures to Avoid Takings Issues

Some municipal governments in California have introduced administrative procedures intended to discourage takings claims and attain resolution without litigation. The following language from a Palo Alto ordinance is useful:

A. Heritage Property may be demolished if....(2) the city council finds, after review and recommendation from the historical resources board, that maintenance, use and/or alteration of the resource in accordance with the requirements of this chapter would cause immediate and substantial hardship on the property owner(s) because rehabilitation in a manner which preserves the historic integrity of the resource: (i) is infeasible from a technical, mechanical, or structural standpoint, and/or (ii) would leave the property with no reasonable economic value because it would require an unreasonable expenditure taking into account such factors as current market value, permitted uses of the property, the value of transferable development rights and the cost of compliance with applicable local, state, and federal codes.

This Palo Alto language could be adapted in other communities to cover not only demolition, but also new construction, and/or to place the administrative procedure entirely under the purview of the planning board or an administrative official.

Another strategy in drafting local preservation ordinances to avoid takings claims is to give owners of historic properties credit for transferable development rights (TDRs)

⁹⁰ *City of Monterey v. Del Monte Dunes at Monterey, Ltd.*, 526 U.S. 687 (1999) (jury may determine deprivation of all reasonable economic use on many grounds).

⁹¹ 438 U.S. 104 (1978).

when a significant property is preserved. Successful TDR programs exist in several California municipalities, with the specific purpose of strengthening regulatory programs for historic preservation. These municipalities include San Francisco,⁹² Pasadena, Los Angeles, and San Diego.

CEQA AND HISTORIC PRESERVATION

Originally passed in 1970 and modeled after the National Environmental Policy Act (NEPA), the California Environmental Quality Act (CEQA)⁹³ is a statute intended to require specific review of environmental impacts on projects undertaken by government agencies. As with NEPA, CEQA is composed largely of procedures and study requirements, and frequently provides the basis for litigation related to controversial land development projects. Yet unlike NEPA, CEQA has actual substantive requirements for mitigation of project impacts, and requires that the environmentally least adverse alternative be adopted if feasible.

While CEQA deals with a broad range of environmental considerations, historical resources are clearly within the purview of the statute. The statute's purpose statement expressly notes that the quality of the "historic environment" is, through review, is to be maintained in California. CEQA issues are found in a variety of historic preservation cases. For example, redevelopment of a blighted downtown area may require a local government to weigh the benefits of preserving an historic building against the social and economic liabilities associated with maintaining the building in its historic location. Or, a local government may have to consider similar issues under CEQA when adopting a new preservation ordinance.

CEQA compliance is a complex topic and the discussion below is intended to provide only a general overview of this issue as it relates to historic preservation. The Office of Historic Preservation's website and Technical Assistance Series provide additional information.⁹⁴ In any case, this manual is not intended to provide legal advice, and it is recommended that an attorney be consulted with questions related to any potential legal issue related to CEQA.

The Relationship between CEQA Procedures and Local Preservation Ordinances

Communities should reference the CEQA review process in their local preservation ordinances and clarify whether or not the local preservation decision-making review process will be influenced by the state-mandated CEQA review process.

CEQA has the potential to preclude further review of a proposal regarding an historic resource until the specific requirements of an EIR or MND have been initiated, if not completed. As a result, some communities draft preservation ordinances that allow local review only after appropriate CEQA procedures have been followed. The City of Fresno

⁹² See, San Francisco, California, Planning Code § 128(a).

⁹³ Cal. Pub. Res. Code § 21000, *et seq.*

⁹⁴ CEQA Technical Advice Series, CEQA and Historic Resources: CEQA Provisions, *available at* http://ceres.ca.gov/topic/env_law/ceqa/more/tas/page3.html .

has taken this approach in its ordinance:

...No hearing shall be held by the Commission for applications or proposals to demolish, grade, remove or substantially alter the Historic Resource until such application or proposal has undergone environmental review in accordance with the California Environmental Quality Act...⁹⁵

Alternatively, some communities draft ordinances that allow local preservation review to proceed concurrently with the CEQA process, to the extent possible. For example, the City of Davis ordinance allows for extensions in the local review process to accommodate appropriate CEQA review.

If any action under this article is subject to the provisions of CEQA, the time in which such action must be taken shall be extended in order to allow time to comply with said Act, provided, however, that such action is taken within the time limits imposed by the Permit Streamlining Act.⁹⁶

CEQA's jurisdiction over properties of historic value may extend beyond those properties recognized under a local preservation ordinance. In other words, just because a historical property is exempt from a local preservation ordinance does not necessarily mean that it is excluded from applicable CEQA provisions.⁹⁷

Discretionary Actions versus Ministerial Actions

Whether CEQA actually applies to a particular project depends on whether that project is a "discretionary" or "ministerial" action for the government agency taking action.

- **Discretionary actions** require some sort of judgment to be used by the decision-maker. CEQA applies to discretionary actions. If there is any aspect of the project that under any local ordinance, process, or procedure must undergo scrutiny, and there is review and discretion as to approval or issuance of a permit; or if the local ordinance places alterations to historic properties or their demolition under the review of a commission, then the project is discretionary and CEQA applies. For example, whether or not a proposed rehabilitation project will comply with specific conditions typically would be a discretionary decision. Importantly, CEQA review can apply to reviews of both demolitions and alterations, if that review is discretionary.
- **Ministerial actions** typically involve little or no judgment on the part of the decision-maker. They are based on fixed standards or objective measurements. For example, whether a proposed rehabilitation would meet the generally applicable off-street parking requirements of the local zoning ordinance typically would be a ministerial decision. CEQA does not apply to ministerial actions.

⁹⁵ Fresno, California, Code of Ordinances § 13-412 (Historic Resource Permit Review Process).

⁹⁶ Davis, California, Code of Ordinances § 29.145.20 (Time Extensions).

⁹⁷ See, Monterey, California, Code of Ordinances § 38.74(b) (exclusion from historic preservation ordinance do not create exemption for properties to which CEQA historic provisions apply).

The distinction between ministerial and discretionary acts is not always clear in the context of historic preservation. Each local jurisdiction and special district must adopt procedures for implementing CEQA, and these procedures usually include a list of actions that are deemed ministerial. The language of the local preservation ordinance, and the inclusion or absence of certain elements, thus determines what CEQA procedures the local government will need to follow for projects affecting historic properties and how much authority to enforce preservation goals under CEQA is given to neighborhood associations and preservation advocacy groups.

The distinction between ministerial actions and discretionary actions is a case-specific inquiry that may provide the basis for a temporary injunction of demolition or alteration activities while the issue is being reviewed by the courts. For example, if a preservation organization learns of the issuance of a demolition permit for a historical building, that organization could file for a temporary injunction allowing a court time to rule on issue of whether CEQA review is required prior to issuance of the demolition permit.⁹⁸

Most CEQA case law regarding the distinction between ministerial and discretionary actions centers on the issuance of demolition permits. In some cases, a permit to demolish a building has been treated as a simple over-the-counter action under the Uniform Building Code, and thus California courts have found that the action is ministerial, rejecting claims that CEQA review is required.⁹⁹ Local ordinances that lack any specific authority to review demolition or alteration permits for adverse effects on the historic environment are likely candidates for classification in the ministerial category.

However, California courts have held that CEQA compliance is required where a city has an ordinance allowing discretionary review of demolition permits,¹⁰⁰ or where a proposed impact to an historic resource is part of a larger project that is discretionary.¹⁰¹ For example, in the case of *Friends of Sierra Madre v. City of Sierra Madre*, the California Supreme Court recently held that, as a discretionary action, a city council must comply with CEQA before placing a measure on the ballot that would de-list designated historic properties.¹⁰²

⁹⁸ Litigating while under temporary injunction is a common posture for cases in which a demolition is proposed and an intervening organization pleads inadequate CEQA compliance. See, *League for Protection of Oakland's Historic Resources v. City of Oakland*, 52 Cal.App.4th 896, 903, [60 Cal.Rptr.2d 821,] (Cal. App. 1997); *Citizens for Responsible Development v. City of West Hollywood*, 39 Cal.App.4th 490, 498, [45 Cal.Rptr.2d 917,] (Cal. App. 1995).

⁹⁹ *Id.*, 15 Cal.App.4th at 87; *Adams Point Preservation Society v. City of Oakland*, 192 Cal.App.3d 203, [237 Cal.Rptr. 273,] (Cal. App. 1987); *Environmental Law Fund v. City of Watsonville*, 124 Cal.App.3d 711, [177 Cap.Rptr. 542 (1981).

¹⁰⁰ *San Diego Trust & Savings Bank v. Friends of Gill*, 121 Cal.App.3d 203, [174 Cal.Rptr. 784,] (1981).

¹⁰¹ *Orinda Ass'n v. Board of Supervisors*, 182 Cal.App.3d 1145, 1171-72, [227 Cal.Rptr. 688,] (1986).

¹⁰² *Friends of Sierra Madre v. City of Sierra Madre*, 25 Cal.4th 165, 183-91 [105 Cal.Rptr.2d 214, 19 P.3d 567,] (Cal. 2001) (distinguishing for the purposes of CEQA between council initiated (discretionary) ballot measures and voter initiated (ministerial) ballot measures).

Determining Whether CEQA Applies

The intent of CEQA is to require all public agencies to study thoroughly the impact of a project prior to rendering a decision. This includes local, county, and state governments, any special district, and any public college or university.

Local preservation authorities, who qualify as a public agency under CEQA, must consider several important questions as they determine whether or not a particular action falls under the CEQA statute and its extensive set of guidelines:¹⁰³

- **Is the project subject to CEQA?** As discussed below, CEQA generally applies only to “discretionary” projects – those in which discretion is applied by a decision-maker. CEQA does not apply to “ministerial” projects that are evaluated based on fixed, objective criteria and involve no discretion. However, projects carried out by a public agency are always subject to CEQA.
- **Is the project exempt from CEQA?** There are both statutory exemptions created by the state legislature and also categorical exemptions. In most cases, projects that will meet the *Secretary of Interior’s Standards for the Treatment of Historic Properties* are categorically exempt from CEQA.
- **Are historical resources involved?** Under CEQA historical resources include, without question, properties listed in the California Register or determined eligible for the California Register by the State Historical Resources Commission. Properties included in a local register or identified as significant in a historical survey are presumed to be significant for purposes of CEQA unless a preponderance of evidence demonstrates otherwise. Other resources may be considered to be a historical resource provided the lead agency’s determination is supported by substantial evidence. Finally, the fact that a resource is not listed in, or determined to be eligible for listing in the California Register, not included in a local register, or identified in a historical properties survey does not preclude an agency from determining the resource may be a historical resource.
- **If CEQA does apply, will the project have a substantial adverse effect on the significance of a historical resource?** If the project will have no substantial adverse effect, the government agency taking action must issue a set of findings known as a Negative Declaration accompanied by the analysis that supports this conclusion (Initial Study). If the substantial adverse effects can be eliminated through mitigation measures, the agency may issue a Mitigated Negative Declaration (MND). Finally, on projects where the substantial adverse effects are too numerous or complex to reasonably address initially in an MND, CEQA requires the preparation of an Environmental Impact Report (EIR). The EIR analyzes project alternatives and the feasibility and effectiveness of various mitigation strategies. The EIR may be subsequently used to justify an MND.

¹⁰³ Cal. Code Regs., tit. 14, § 15000, *et seq.*

Definition of Historical Resources

Section 21084.1 of the CEQA statute defines the resources that are considered “historical resources” for purposes of CEQA:

For purposes of this section, an historical resource is a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources. Historical resources included in a local register of historical resources, as defined in subdivision (k) of Section 5020.1 [of the Public Resources Code], or deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1 [of the Public Resources Code], are presumed to be historically or culturally significant for purposes of this section, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant. The fact that a resource is not listed in, or determined to be eligible for listing in, the California Register of Historical Resources, not included in a local register of historical resources, or not deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1 [of the Public Resources Code] shall not preclude a lead agency from determining whether the resource may be an historical resource for purposes of this section.

This broad definition is intended to be inclusive of all significant historic resources. This issue was litigated in a prominent recent case from Oakland, California, in which demolition of a 1923 Montgomery Ward department store building was proposed. The building had been noted as eligible for the National Register of Historic Places as part of a comprehensive inventory of the city’s historical resources, even though it had not been formally designated on any local, state, or national register. In that case, the court found that the historic designation in the survey (which was part of the city’s general plan) was sufficient to make the Montgomery Ward building historically significant for purposes of CEQA, even though there had been no formal designation action under the preservation ordinance.¹⁰⁴

A Negative Declaration¹⁰⁵ is all that is required if the preponderance of evidence in the administrative record demonstrates that a structure in question is not a “historical resource” for purposes of CEQA.

Substantial Adverse Change

Another key question in CEQA cases involving historic preservation is whether or not the proposed action at issue is likely to have a substantial adverse change on the significance of a historical resource. According to CEQA, at Section 21084.1 of the California Public Resources Code, “a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.”

A Negative Declaration is all that is required under CEQA if the proposed action will not

¹⁰⁴ *League for Protection of Oakland's Historic Resources v. City of Oakland*, 52 Cal.App.4th 896, 908, [60 Cal.Rptr.2d 821,] (Cal. App. 1997).

¹⁰⁵ Cal. Pub. Res. Code §§ 21064, 21080(c)(1).

have substantial adverse change on the historical resource.¹⁰⁶ A Mitigated Negative Declaration¹⁰⁷ is appropriate if mitigation measures (e.g., redesign of a building to preserve historically significant features) would eliminate the substantial adverse change in the significance of the historical resource.

Environmental Impact Reports

For projects involving an unmitigated significant adverse change on a historical resource, CEQA requires an Environmental Impact Report (EIR).¹⁰⁸ California law requires that there be some “substantial evidence” on the record that an adverse change may occur, but the standard for evidence to this effect¹⁰⁹ is easy to satisfy: A party claiming CEQA applicability need only assemble a “fair argument” from all available evidence that a project will negatively impact a significant historic resource.¹¹⁰

In general, the EIR “must describe all reasonable alternatives, including those capable of reducing or eliminating environmental effects.”¹¹¹ One of the alternatives always must be a “no project” scenario (i.e., no building addition, no demolition, etc.); however, some alternatives need not be considered if they are clearly infeasible.¹¹² If there are historical resources present, one of the alternatives must be to preserve the historical resources. Also, cumulative impacts and pending projects must be accounted for in the analysis of alternatives.¹¹³

Though CEQA is primarily presented as a procedural statute, its provisions do have some substantive effect on the outcome of certain cases. Among a series of CEQA directives to local government, municipal authorities are not, for instance, permitted to approve environmental impacts if feasible alternatives or feasible mitigation measures addressing those impacts are available.¹¹⁴ As a result, a project may be sent “back to the drawing board” by a court even after complying with all EIR requirements and

¹⁰⁶ See, *Baird v. County of Contra Costa*, 32 Cal.App.4th 1464, [38 Cal.Rptr.2d 93,] (Cal. App. 1995) (to fulfill CEQA requirements a project involving no change in environmental conditions is required only to have a Negative Declaration).

¹⁰⁷ Cal. Pub. Res. Code §§ 21064, 21080(c)(2).

¹⁰⁸ Cal. Pub. Res. Code §§ 21061, 21100, 21100.1 (definition and contents of EIRs), 21155 (EIR process).

¹⁰⁹ See, Cal. Pub. Res. Code § 21080(e).

¹¹⁰ *League for Protection of Oakland's Historic Resources v. City of Oakland*, 52 Cal.App.4th 896, 908, [60 Cal.Rptr.2d 821,] (Cal. App. 1997) (without fulfilling EIR requirement, City could not proceed with demolition and redevelopment when its own documentation indicated an affected building was historically significant); see also, *Communities for a Better Environment v. California Resources Agency*, Cal. Ct. App., 3rd Dist. Case No. C038844, decided October 28, 2002 (holding invalid CEQA rule 15064(h), which permitted regulatory standards to serve as a benchmark for CEQA compliance, because the rule would undermine the statutory and judicial standard of a “fair argument” that significant impacts may occur).

¹¹¹ *Foundation for San Francisco's Architectural Heritage v. City and County of San Francisco*, 106 Cal.App.3d 893, 909-12, [165 Cal.Rptr. 401,] (Cal. App. 1986) (emphasis added).

¹¹² *Id.* (\$1,000,000 loss to developer to maintain an existing structure at the City of Paris store site is not a feasible alternative requiring analysis in EIR for CEQA compliance).

¹¹³ *San Franciscans for Reasonable Growth v. City and County of San Francisco*, 151 Cal.App.3d 61, [198 Cal.Rptr. 634,] (Cal. App. 1984) (Mitigated Negative Declaration is of little value and does not meet CEQA statutory requirements without placing the project in larger geographic and temporal context).

¹¹⁴ Cal. Pub. Res. Code §§ 21002, 21002.1

procedures.¹¹⁵

Closing the CEQA Process

Where a CEQA process is required, a city or county must demonstrate that it has prepared the Negative Declaration, Mitigated Negative Declaration, or EIR in order to fulfill its CEQA obligations. In a typical CEQA process a community will certify an EIR or Mitigated Negative Declaration before issuing a permit for any activity affecting historic resources.¹¹⁶ After the community has adopted an EIR or MND, the CEQA process remains open to legal challenges, but with typically short time frames for appeal, in order to ensure that all project review takes place in a timely manner and within a consolidated process.¹¹⁷

Regarding the quality of CEQA documents, studies produced for CEQA compliance purposes are generally acceptable if they properly “ring the alarm bell” as to project impacts and disseminate project information in a manner that allows the public to intelligently weigh environmental (including historic) consequences of a project and have a say in the review process.¹¹⁸

¹¹⁵ See, *Orinda Ass'n v. Board of Supervisors*, 182 Cal.App.3d 1145, 1168, [227 Cal.Rptr. 688,] (Cal. App. 1986) (razing historic structures disallowed when EIR showed no attempt to mitigate or demonstrate the infeasibility of mitigation).

¹¹⁶ See, *Ciani v. San Diego Trust & Savings Bank*, 233 Cal.App.3d 1604, 1611, [285 Cal.Rptr. 699,] (Cal. App. 1991); *Vedanta Society of Southern California v. California Quartet Ltd.*, 84 Cal.App.4th 517 (Cal. App. 2000); *League for Protection of Oakland's Historic Resources v. City of Oakland*, 52 Cal.App.4th 896, 908, [60 Cal.Rptr.2d 821,] (Cal. App. 1997).

¹¹⁷ See, Cal. Pub. Res. Code § 21167.4 (requests for hearing not filed within 90 days of CEQA challenge subject entire claim to dismissal); *San Franciscans for Reasonable Growth v. City and County of San Francisco*, 189 Cal.App.3d 498, 504, [234 Cal.Rptr. 527 (Cal. App. 1987)]; *Mitchell v. County of Orange*, 165 Cal.App.3d 1185, 1192, [211 Cal.Rptr 563,] (Cal. App. 1985).

¹¹⁸ *Dusek v. Redevelopment Agency*, 173 Cal.App.3d 1029, 1038-39, [219 Cal.Rptr. 346,] (Cal. App. 1985) (involving a proposal to demolish the Pickwick Hotel in downtown Anaheim, holding that compliance with CEQA does not require adherence to the minutiae of every technical provision).

SECTION 6: CONSIDERATION OF ECONOMIC EFFECTS

Many California communities not only protect historic resources through regulations that restrict what property owners may do; they also provide economic incentives and assistance to encourage preservation. The adoption of economic incentives is an important tool to assist owners in returning often underused historic resources back to active service within the community.

ECONOMIC INCENTIVES

One of the most important forms of economic incentives for preservation is a state law (the Mills Act, California Govt. Code §§ 50280, et seq.) that allows owners of certain historic properties and local government assessors to enter into contracts for property tax reduction. Qualification for property tax reduction under this law is conditioned on maintenance of the property as a historic resource for a set period, usually the duration of the property tax credit and/or ten years.¹¹⁹

In addition, many jurisdictions have established direct grant programs or revolving funds for rehabilitation. Still others have passed laws enabling owners to donate facade easements to the local government or private organizations, thereby making the owner eligible for special federal income tax deductions.

Many communities attempt to make several forms of economic assistance available. For example, the Glendale, California, ordinance lists several forms of incentives and assistance, including the Mills Act property tax relief, reduction in parking requirements, and allowance of a broad range of allowable uses.¹²⁰

The Glendale example shows that government funding money is not the only tool available for preservation programs. Several cities have initiated programs to help owners of historical resources obtain private financing for rehabilitation or locate prospective buyers. Communities might also consider adopting policies to house government offices in designated historic buildings, or establish a listing service to attract potential tenants to a landmark building. The Danville, California, ordinance provides several other incentive options:

The Town of Danville may offer the following incentives to the owner(s) of property meeting the criteria for designation in order to encourage their participation in the preservation program:

- a. Waive restrictions contained in Section 32-45, Downtown Business District, subsections 32-45.11, 32-45.12 and 32-45.14 on the location of personal service, service/commercial, service office, and office uses in Downtown Business District Areas 1, 2, and 4;

¹¹⁹ More information on the Mills Act can be found at the website of the California Office of Historic Preservation, Technical Assistance Series #12, "Mills Act Property Tax Abatement Program."

¹²⁰ Glendale, California, Code of Ordinances, § 15.20.070 (Incentive program for historic resources).

- b. If located within area 1, 2 or 3 of the Downtown Business District, a reduction in the parking requirements for any approved addition to the structure and/or site, or approved change in use;
- c. Relaxation of development standards for additions to designated structures and/or site;
- d. A reduction in the fees for the appropriate building permits required to do improvements;
- e. Expedited processing of permit applications;
- f. Liberal interpretation of the Historic Building Code;
- g. If located in the Downtown Business District, a reduction of the anticipated beautification assessment;
- h. Availability of low interest loans for alteration of the improvement;
- i. Availability of grants for rehabilitation from a portion of the Town's retail sales tax revenues, as may be budgeted from time-to-time;
- j. A reduction in property taxes;
- k. Inclusion in a pamphlet to be distributed to residents and tourists;
- l. Identification plaques for designated improvements;
- m. Such other incentives as Town Council may from time-to-time implement.¹²¹

The County of Santa Cruz provides a flexible approach in its zoning code that encourages the continued use of nonconforming historic properties.

The County of Santa Cruz's 2004 code amendments provide a series of indirect incentives to encourage the continued used of historic properties:

- a. State Historic Building Code. . . .
- b. Parking. The parking requirements of Section 13.10.550 et seq., may be modified in connection with an application involving an historic resource. . . .
- c. Non-conforming structures. The ordinary maintenance and repair, structural enlargement, extension, reconstruction or alteration of a non-conforming historic resource shall be allowed according to Section 13.10.265(d).
- d. Floor Area Ratio. For development on properties where an historic resource exists, the Floor Area Ratio shall be 0.6:1.
- e. Lot Coverage. For development on properties where an historic resource exists, maximum lot coverage shall be 1.125 times the standard lot coverage for the particular zone district. 122

Some communities, including San Juan Bautista, have adopted the Secretary of the Interior's Standards for the Treatment of Historic Properties as the threshold to invoke exceptions to existing zoning codes, making the use of the Standards an indirect economic incentive.

The following preservation incentives shall be made available to properties listed on the City of San Juan Bautista Register of Historic Resources that undergo maintenance or alteration consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

¹²¹ Danville, California, Code of Ordinances, § 32-72.5 (Incentives).

¹²² Santa Cruz County, California, Code of Ordinances, § 16.42.090 (Incentives).

- C. The following exceptions to the underlying zoning standards, upon grant of a Use Permit and Site Plan and a Design Review by Planning Commission:
- a. Multi-family residential uses in a single-family residential district
 - b. Commercial uses in a multi-family district
 - c. Industrial uses in a commercial district
 - d. Guest Houses on lots less than the minimum required lot size for the R-1 and R-2 zoning districts.¹²³

The approaches identified above have one thing in common; they tend to defuse many of the economic issues surrounding historic resource regulation.

Not every community, particularly smaller ones, will be able to offer the various forms of economic assistance noted above - nor does the law require that they do so. Fortunately, the economic development stakes are not as great in those places as they are in big cities in which millions of dollars may be involved in a single development.¹²⁴

The idea is to make preservation easy for owners of historical resources. Economic assistance may not only help preserve buildings but may also help keep a difficult case out of court. And if litigation does arise, such aids may make the difference to a court that would like to uphold restrictions but is troubled by a seemingly severe economic impact on the owner.

EDUCATION AND TECHNICAL ASSISTANCE

In addition to providing for economic assistance, in California, many current preservation ordinances (e.g., San Francisco, Oceanside, Oakland) note that it is the purpose and duty of the preservation commission to promote the preservation program. Applications for inappropriate work on landmark properties through the certificate of appropriateness process can become contentious and controversial. Many people have the perception that historic preservation is necessarily expensive or difficult. Others lack the knowledge or skills to carry out sensitive maintenance or rehabilitation work and rely on quick fixes from the local building supply store. Many people are unaware of the history or significance of their neighborhood or town. Often, there are common perceptions about the extent of the local government's regulatory reach — just what actions may the city deny or delay?

For these reasons, an important part of a comprehensive preservation program should be educational and outreach efforts to inform homeowners, developers, and others about why historic resources are significant in the community, and what steps the city is taking to protect those resources. Education efforts might target specific audiences with information that will be useful to them; the real estate community, for example, may wish to understand better any impacts that historic regulation will have on local home sales prices. Some communities, including the City of Ontario, take the time to explain to property owners the significance of their neighborhood, assist owners in identifying

¹²³ San Juan Bautista, California, Code of Ordinances, Ch. 13, § 11.13.100 (Incentives)

¹²⁴

and locating appropriate building materials such as siding and windows, and then recognize those property owners who carry out good projects.

Notwithstanding the publicity often given demolition battles, they are not the norm. Effective education and outreach programs can help inform the public about the many benefits of preservation, and thus can help build support for voluntary compliance with preservation ordinances. The education process can both explain the specific mechanics of the protections afforded by the ordinance, and also can help citizens understand the local history and why historic resources are worth preserving.

ECONOMIC HARDSHIP

To ensure compliance with federal and state constitutional requirements, the ordinance should include a procedure allowing a property owner to make the case that, in some situations, enforcement of the ordinance will cause unusual and extreme economic hardship. This is analogous to the variance provisions of a standard zoning ordinance, which provide a “release-valve” in unusual cases where regulation of development and use of a property may potentially rise to the level of an unconstitutional “taking.”¹²⁵ From a policy perspective, it may also be desirable to allow for some degree of flexibility within a preservation ordinance in order to encourage rehabilitation and economic use of the property, to avoid making “mothballing” of regulated properties the result of historic preservation efforts. As courts continue to reject frontal challenges to preservation ordinances and review standards, commissions should expect that much litigation will focus on economic matters, such as whether the owner is earning a reasonable return on the property.

CURRENT ECONOMIC RETURN

While economic considerations should play no role in designating historical resources, they can play a central role in reviewing applications for certificates of appropriateness. While most preservation commissions do consider the economic impact of the preservation regulation on the applicant, many do it somewhat haphazardly. Haphazard consideration of economic evidence is not only an invitation for a court challenge but may also fail to give the local commission all the information it needs to make a reasoned decision. In many instances, the real economic facts of a case may support preservation rather than demolition.

A key inquiry in determining whether preservation regulation is onerous centers on the current economic return on the property in light of the amount originally invested, taxes, and other considerations, including caliber of management. As the Supreme Court noted in *Penn Central Transportation Co. v. New York City*,¹²⁶ courts will examine whether a historic property owner can earn a “reasonable return” and whether the historic property is “economically viable” in its present use or form.

¹²⁵ U.S. Constitution, Amendment V (“nor shall private property be taken for public use, without just compensation”).

¹²⁶ 438 U.S. 104 (1978).

In some communities, like New York, the preservation commission applies a fixed statutory definition of what constitutes a reasonable return. This approach may work well if the commission has resources to make a sophisticated analysis of reasonable return. Other communities use the standard zoning variance approach, one that often does not produce useful information regarding economic hardship.

In most jurisdictions, a better answer is to establish an administrative procedure to bring out certain facts that courts have held important in determining whether land-use regulation is overly burdensome. The reviewing body should require an applicant for a certificate of appropriateness to produce information regarding the price originally paid for the property, potential rental or lease income, the level of taxes, and the net profit derived from the historical resource, if any, over the past several years. Opponents of the proposed application might be given an opportunity to show there are feasible alternatives to demolition or that the historical resource could earn a reasonable return if properly managed. If the local government has such a procedure, the landowner should be required to utilize it before suing in court.

The Washington D.C. preservation ordinance¹²⁷ demonstrates just how effective this approach can be. It establishes an administrative procedure whereby anyone seeking to demolish or alter a historical resource must produce evidence that a denial of a permit would cause serious economic deprivation. Since the ordinance was enacted, these provisions have been instrumental in court cases upholding the D.C. ordinance.¹²⁸

OWNER'S BONA FIDE ATTEMPT TO RENT OR SELL PROPERTY

Courts in several jurisdictions have held that an important factor in determining whether an owner has been deprived of all economic use of his property is whether there has been any bona fide effort to rent or sell the property. If an owner is holding the property off the market in anticipation of being able to demolish it, then any claim that the regulations prevent all reasonable use rings hollow. As explained in *First Presbyterian Church of York v. City Council of York*:

...the Church, having failed to show that a sale of the property was impracticable, that commercial rental could not provide a reasonable return or that other potential uses of the property were foreclosed, had not carried its burden of proving a taking without just compensation.¹²⁹

¹²⁷ D.C. Code Ann. §§ 5-1001-1015.

¹²⁸ See, *Committee of 100 v. District of Columbia*, 571 A.2d 195 (D.C. 1990); *Cf.*, *900G Street Assoc. v. Dep't of Housing & Community Dev.*, 430 A.2d 1387 (D.C. 1981) (diminution in cash value of property is not an undue economic hardship so long as some reasonable alternate economic use of property remains).

¹²⁹ 360 A.2d 257 (Pa. 1976). See also, *Maher v. City of New Orleans*, 516 F.2d 1051 (5th Cir. 1975); *900 G St. Assoc. v. D.C. Department of Housing & Community Development*, 430 A.2d 1387 (D.C. App. 1981).

Thus, a preservation commission should delve into these issues: Has the property been offered for sale through a real estate broker? Has the property been advertised in any newspapers? How was the selling price established, and was it reasonable?

FEASIBILITY OF PROFITABLE ALTERNATIVE USES

To present a case for a certificate of appropriateness for alteration or demolition, some communities require the historical resource owner to show that the existing use is not profitable and, furthermore, that it would not be feasible to renovate the property or undertake an alternative development compatible with the preservation of the property.

The owner of a historic property may claim that historic regulation or potential designation limits the economic use of a property, but California law does not recognize such a claim based only on maximum potential economic return. To illustrate, in an Orange County case, the planning commission found that an historic building at a noisy intersection could be appropriately intensified in use from single family residential to “garden office” uses. This recommendation did not, however, entitle the property owner to a change from the existing designation status.¹³⁰

Evidence regarding a profitable alternative use of the existing structure or development sensitive to preservation concerns is relevant to the issue of reasonable use. As required by the court in *Lafayette Park Baptist Church v. Board of Adjustment of City of St. Louis*¹³¹ a landowner could be asked to make a case that alternatives to demolition are impracticable:

In order for the landowner to raise the question of unconstitutional application as to his property, he must prove that it is impractical to rehabilitate, and as we have stated, this contemplates not only infeasibility because of physical condition but also a negative answer to the question as to whether the property can be turned to use or account profitably. Economic profitability contemplates restoration, and if not, then the question arises: Can it be sold profitably? If the owner is unable to restore from an economic standpoint he must then establish it is impractical to sell or lease the property or that no market exists for it at a reasonable price. Only then is he entitled to a demolition permit. And only then are his constitutional rights denied.

In the context of an application for a demolition permit, economic practicability of alternative economic uses was specifically raised in the California case of *Foundation for San Francisco's Architectural Heritage v. City and County of San Francisco*,¹³² where the court determined that substantial evidence existed for the city's finding that no feasible economic use remained for the City of Paris building. More recently, the “substantial evidence” standard was again cited by a California court when affirming San Francisco's decision to allow portions of its downtown Emporium Building to be demolished as part of a revitalization project.¹³³ The court noted that, in making the

¹³⁰ See, *Mitchell v. County of Orange*, 165 Cal.App.3d 1185, 211 Cal.Rptr. 563 (Cal. App. 1985).

¹³¹ 599 S.W.2d 61 (Mo. 1980); see also, *Committee of 100 v. District of Columbia Department of Consumer & Regulatory Affairs*, 571 A.2d 195 (D.C. App. 1990).

¹³² 106 Cal.App.3d 893, 165 Cal.Rptr. 401 (Cal. App. 1980).

¹³³ *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco (Forest City*

determination that no feasible economic use existed for the Emporium property, the applicant had followed provisions of the City Planning Code specifically devoted to viability of rehabilitation for properties of historical significance. Particularly, Planning Code §1112.1 states that an application to demolish an historically significant structure must include the following economic evidence:

(a) For all property:

- (1) The amount paid for the property;
- (2) The date of purchase, the party from whom purchased, and a description of the business or family relationship, if any, between the owner and the person from whom the property was purchased;
- (3) The cost of any improvements since purchase by the applicant and date incurred;
- (4) The assessed value of the land, and improvements thereon, according to the most recent assessments;
- (5) Real estate taxes for the previous two years;
- (6) Annual debt service, if any, for the previous two years;
- (7) All appraisals obtained within the previous five years by the owner or applicant in connection with his or her purchase, financing or ownership of the property;
- (8) Any listing of the property for sale or rent, price asked and offers received, if any;
- (9) Any consideration by the owner for profitable and adaptive uses for the property, including renovation studies, plans, and bids, if any; and

(b) For income-producing property:

- (1) Annual gross income from the property for the previous four years;
- (2) Itemized operating and maintenance expenses for the previous four years;
- (3) Annual cash flow for the previous four years.

It is important that economic evidence be considered in any case involving a potential impact to historic property, and San Francisco's procedure provides a model for other California ordinances. Economic evidence is also an important consideration in the context of takings claims, as discussed in detail below.

CERTIFICATES OF ECONOMIC HARDSHIP

To keep the administration of a preservation ordinance running smoothly and to deal with cases of hardship, every ordinance should have what might be termed "safety valves." Generally, preservation commissions will need flexibility in dealing with two situations: first, when an owner faces economic hardship because there is no reasonable economic use for the historical resource; and, second, when there is an economic use, yet legal restrictions, such as zoning regulations or building codes, preclude necessary renovations. If the owner can satisfy the reviewing body that applicable preservation restrictions are causing a unique and serious economic hardship, that body might grant relief (in the form of a permit to allow an alteration or new construction). Local governments must determine when and what types of such relief might be appropriate.

Development, Inc.), Case No. A095827, California Ct. App., First District, Division Three (decided Sept. 30, 2002, scheduled for publication in Cal. App. 4th).

While it is easy to sympathize with an owner who is having a difficult time making ends meet because of high taxes, energy costs, and the like, the simple fact that a property is located in a historic district should never be, in and of itself, a reason to allow a variance from local preservation and land-use controls or to grant a demolition permit. Nor is the owner's desire to increase the property's economic return adequate ground for relief. Such claims were rejected in a seminal case from New Orleans, in which the owner wanted to construct, in violation of the local ordinance, another building on a lot on which a historical resource was situated:

. . . in the absence of a showing that approval of . . . non-violative construction could not have been obtained from the Vieux Carré Commission, we cannot hold appellant suffered financial loss in being denied an opportunity to obtain an increased return from its property. Even if financial loss had been shown, such loss is only a factor to be considered in determining hardship and will not, standing alone, constitute a hardship sufficient to justify a variance. And here the hardship referred to, the requirement of conformity to two separate and sometimes conflicting standards of construction, is neither "unusual" nor "particular" to [the plaintiff]. It is common to all property owners in the zoning district in which [the plaintiff's] lot is located and therefore is not a hardship which justifies the granting of a variance. To hold otherwise would have the effect of destroying the zoning district.¹³⁴

To the extent that local preservation controls are made part of the local zoning ordinance, state law may control situations in which relief due to economic hardship can be granted as part of the general variance process. Though the majority of California jurisdictions limit the variance power to special physical circumstances, there is no limitation placed on the consideration of economic hardships. California's preservation enabling legislation likewise does not specifically define economic hardship for purposes of variances, so it appears in all California jurisdictions that the best approach may be to establish an administrative procedure whereby an owner who seeks relief bears the burden of showing that the historical resource cannot be put to some reasonable economic use in its present state. If it is determined through such a procedure that the property cannot be put to some reasonable economic use, the procedure should set forth options for next steps, perhaps including incentives to allow use of the property, variances from certain standards, or possibly acquisition by the local government.

The administrative procedure used to accept and review economic hardship information need not be complicated. The Burbank ordinance contains a short section that succinctly establishes the purpose, content, timing, and criteria for issuing what is referred to as a Certificate of Economic Hardship (See excerpt below.).

¹³⁴ *Phillips v. Board of Zoning Adjustments of City of New Orleans*, 197 So.2d 916, 916-20 (La. 1967).

**CALIFORNIA CODE EXCERPT:
CERTIFICATE OF ECONOMIC HARDSHIP**

CITY OF BURBANK

Section § 31-929(b)(2).

An owner of a designated historic place or structure of merit may request that he be allowed to alter the place or structure in such a manner as will adversely affect its distinctive significance, or that he be allowed to remove the structure, on the basis of extreme financial [de]privation or adversity. An application made on this basis shall be in accordance with procedures pr[e]scribed by the Commission.

The Commission shall be authorized to request the applicant furnish material evidence supporting his request for a Certificate of Economic Hardship. The Commission shall review all the evidence and information required of an applicant and make a determination within ninety (90) days of receipt of the application as to whether the denial of a Certificate of Appropriateness will deprive the owner of the property of all reasonable use of, or economic return on, the property.

If the applicant presents facts and evidence demonstrating to the Commission that failure to approve the application will cause an immediate hardship because of conditions peculiar to the particular structure or other feature involved, and the damage to the owner of the property is unreasonable in comparison to the benefit conferred to the community, the Commission may approve or conditionally approve such certificate.

As another example, the Santa Monica ordinance also includes provisions for a Certificate of Economic Hardship.¹³⁵ The Santa Monica ordinance is somewhat more elaborate, with specific examples of the type of economic and feasibility evidence the Commission may consider, including a number of items very similar to the economic evidence listed in the sample San Francisco ordinance in the above section of this Manual. In addition to purely fiscal evidence, the Santa Monica ordinance includes an architect or engineer's determination of structural stability and feasibility of rehabilitation. The Certificate of Economic Hardship procedure also specifically instructs that hardships may not be caused by the owner's negligence or intentional lack of appropriate maintenance.

As an example of policy in other jurisdictions, Denver has inserted a special use variance in its local zoning ordinance that permits nonresidential use of historical resources, such as professional offices, in residential zones where the owner can demonstrate economic hardship. Such relief is limited to designated historical resources, thereby avoiding the problem of widespread conversion of homes to commercial uses in residential areas.

¹³⁵ Santa Monica, California, Code of Ordinances, § 9.36.160.

SECTION 7: APPEALS

How are decisions made under the ordinance appealed, and to whom? A defined appeal process provides an option for a local administrative resolution to a claim that might otherwise spur litigation in the immediate aftermath of a decision by the preservation commission. Establishment of an administrative review process also produces a record for review in the event that a court challenge does follow from a preservation action.

An appeals section is a key feature in many historic preservation ordinances, though its presence is optional under typical enabling legislation. The appeals section generally clarifies the rights of property owners, public agencies, and other citizens to appeal decisions regarding local government historic preservation actions. Appeals provisions may also specify what types of decisions (e.g., designations, certificates of appropriateness) are open to appeal, as well as the timing and board action required for an appeal.

In California, the majority – though not all – of the local jurisdictions with current preservation ordinances contain an appeals section. Typically, staff decisions are subject to appeal to the preservation commission, and decisions by the commission are subject to appeal to the local legislative body. The City of Sacramento follows this approach:

The decision of the Preservation Director shall be subject to appeal to the [Design Review and Preservation] Board pursuant to Article VIII herein. The decision of the Board, including the decision of the Board on an appeal from the Preservation Director, shall be subject to appeal to the City Council pursuant to Article VIII herein.¹³⁶

The best approach is for preservation-related appeals to go to a specialized board, as is done in Sacramento, as opposed to a general Board of Adjustment, as is sometimes done when the preservation regulations are contained in the zoning ordinance.

Preservation ordinances often enumerate the specific types of decisions that can and cannot be challenged in an appeal. For example, the City of San Francisco specifically allows only appeals of disapproved, as opposed to approved, designation proposals.¹³⁷

The community should consider what parties have the right to appeal decisions under the ordinance. Some communities, such as the City of Los Angeles, state in their ordinance that “an appeal may be filed by the applicant or any aggrieved party.”¹³⁸ This broad authority allows any member of the community a right to appeal a preservation decision. Similarly, the City of Davis gives an unqualified right of appeal to “any resident of the city,” but requires that the appeal must have at least one advocate from within the local community.

¹³⁶ Sacramento, California, Landmarks Preservation Ordinance, § 15.124.360.

¹³⁷ San Francisco, California, Planning Code, § 1004.5.

¹³⁸ Los Angeles, California, Municipal Code, § 12.20.3(J).

Other communities find it advantageous to provide a more explicit limitation on appeals, where an appealing party must have some sort of tangible or official interest in the outcome of the decision. The City of Berkeley, for example, allows for appeals by:

...the City Council on its own motion, by motion of the Planning Commission, by motion of the Civic Art Commission, by the verified application of the owners of the property or their authorized agents, or by the verified application of at least fifty residents of the city aggrieved or affected by any decision of the [Landmarks Preservation] Commission....¹³⁹

Generally, communities that choose to limit the appeals process typically allow appeals only from parties that participated in the initial decision in some way, including the applicant, adjacent landowners who received notice of the initial decision, persons providing verbal or written testimony at a public hearing on the initial decision, and members of the local governing body. Often, the decision is made to limit appeals in communities where an open-ended appeals process has been used in the past to slow down the development approval process.

In addition to specifying what decisions are subject to appeal and who may file an appeal, the ordinance may also spell out procedural requirements for the appeals process, such as the fee required and the timetable for the filing and/or processing of appeals. A fee has the dual benefit of recapturing the cost of holding hearings and administering an appeals case, while also discouraging the filing of frivolous appeals as a stalling or harassment tactic. Typically, an ordinance will authorize the establishment of a fee to process a case, but will specify the exact amount of the fee in a separate resolution (which may be periodically adjusted by the governing body). A deadline for filing appeals assures that any challenge to a preservation decision will be resolved in a timely manner. A five- to fifteen-day period during which appeals may be filed is generally considered reasonable. San Diego's language is typical:

The action of the Historical Resources Board in the designation process is final 11 business days following the decision of the Board unless an appeal is filed with the City Clerk no later than 10 business days after the action of the Board.¹⁴⁰

CALIFORNIA CODE EXCERPT:

APPEALS

CITY OF SANTA MONICA

Section 9.36.180(a)

Each of the following actions by the Commission may be appealed to the City Council:

- A determination of the Commission that an application for the designation of a Landmark or of a Historic District does not merit formal consideration by the Commission, and a determination thereto not to schedule a public hearing.
- A decision of the Commission, after a public hearing, to approve, in whole or in part, or disapprove the designation of a Landmark.
- A decision of the Commission, after a public hearing, defining and describing an appropriate Landmark Parcel upon which a Landmark is situated.

¹³⁹ Berkeley, California, Code of Ordinances, § 3.24.300(A).

¹⁴⁰ San Diego, California, Municipal Code, § 123.0203.

- A determination of the Commission, after a public hearing, amending, modifying or rescinding any decision to designate a Landmark or Landmark Parcel, or any preliminary or supplemental designations, determinations or decisions, as additions thereto.
 - A decision of the Commission to approve in whole or in part, or disapprove an application for a certificate of appropriateness.
 - Any decision of the Commission relating to a structure of merit.
 - The approval or disapproval of an application of a Landmark, Historic District, Structure of Merit, or certificate of appropriateness that occurred as a result of the expiration of the required time periods for processing such applications.
-

SECTION 8: ENFORCEMENT

A preservation ordinance will only be as effective as the power and willingness of the community to enforce it. Ignoring the details of enforcement when drafting a local ordinance may have unfortunate consequences. In Chicago, for example, Rincker House, the second oldest structure in the city and a designated historical resource, was torn down without official approval by a developer who apparently found that the prospective profits from redeveloping the site far outweighed the puny penalties contained in the local preservation ordinance. In other municipalities, preservation commissions find that the enforcement of local controls, particularly in large districts, cause some serious administrative headaches—it is simply too expensive and time-consuming to keep an eye on designated historical resources to make sure the local law is being observed by owners. Thus, in drafting enforcement provisions of an ordinance, one should keep in mind several major issues, including remedies for noncompliance, maintenance and upkeep requirements, and ordinance administration.

REMEDIES FOR NONCOMPLIANCE

As more and more historical resources are designated and the scope of preservation controls is broadened to control everything from demolition of exterior features to day-to-day upkeep, the issue of remedies for noncompliance is certain to become more crucial. The challenge in drafting effective enforcement provisions is to craft remedies strong enough to deter violations and induce compliance, but not so draconian that courts shy away from imposing them. The experience with building and housing codes regulations is instructive. If monetary fines are set at a low level (as fines for ignoring preservation laws often are), owners conclude that, even if they are caught violating a building code provision, the economic consequences are insignificant or can be treated as just another cost of doing business. On the other hand, experience also demonstrates that heavy reliance on criminal penalties is less than optimal. For example, judges in most jurisdictions simply do not put people into jail for zoning code violations. The middle ground options outlined below are likely to be most effective, particularly when used in combination with one another.

Fines

Money fines are the most widely used method of enforcing local codes. A local government generally has statutory authority to issue a notice of violation (not unlike a traffic ticket) and then proceed to court and collect a fine if it can prove its case. For example, the Fresno ordinance authorizes substantial fines in its preservation code:

It shall be unlawful for any person to permit or maintain violations of any of the provisions of this article by undertaking the alteration, grading, removal, demolition or partial demolition of an Historic Resource or a building, structure, object or site within a Historic District without first obtaining the written approval of the Specialist, Commission or Council as provided in this article, or to defy any order or decision rendered by the Specialist, Commission or Council. Any violations of this article may be enforced as provided in this Code, except in the case of administrative citations issued pursuant to this Code, wherein the administrative penalty imposed shall be up to \$10,000 for each

violation. As part of any enforcement proceeding, violators may be required to reasonably restore the building, structure, object, or site to its appearance or condition prior to the violation, under the guidance of the Development Department.¹⁴¹

The Fresno example notwithstanding, the major problem with fines in a preservation context is that they are generally not high enough to deter violations. A fine of \$500 for an illegal demolition is simply inadequate to deter anyone, especially commercial developers who stand to gain much by clearing a site for new construction.

In order for fines to serve as effective deterrents, they must be based on the degree of the offense. A sliding scale might be used to cover a variety of situations: a nominal fine for a first offender who out of ignorance fails to, for example, secure a necessary alteration permit and who agrees to rectify the error; a larger fine, perhaps \$300, plus a further fine of several hundred dollars for each day the violation continues, for second offenders or where a violator is recalcitrant; and a significant fine, measured by the amount of the pecuniary gain derived from the offense, for a persistent offender or one who acted willfully to demolish a building. When used in tandem with other remedies, such as injunctive relief, fines can be an effective method of deterring future violations and also depriving landowners from ill-gotten economic gains.

Injunctive Relief and Compliance Orders

The primary goal of an enforcement provision should be to secure compliance with the local preservation law and to protect historical resources, not to punish offenders. Thus, while fines may be necessary to deter future violations, the preservation ordinance should vest the local government with power to seek injunctive relief to, for example, put an immediate stop to an illegal demolition. In more minor, everyday cases (e.g., when an owner has altered a historical resource without permission) administrative compliance orders issued by the preservation commission may be useful in securing voluntary compliance, as well as establishing a firm ground for court action if necessary. The Berkeley ordinance expressly authorizes the use of abatement orders and injunctive relief: "In addition [to the city manager serving notice of the violation and ordering the violation to cease] the city attorney may seek injunctive relief or maintain an action in abatement to further the provisions of this chapter."¹⁴²

Receiverships and Entry on to Land to Correct Violation

If an owner of a historical resource ignores an administrative compliance order, a court-ordered receivership, which a court can usually establish under its power authorizing injunctive relief, can be very effective. To create a receivership, the local commission will first secure a court order requiring that an illegal alteration be redone or that the owner undertake necessary repairs as previously demanded in the administrative action. The commission should then ask that the court establish a receivership overseen by a third party who would collect rents, make repairs, and manage the property until compliance is achieved. While an owner could also, in these

¹⁴¹ Fresno, California, Code of Ordinances § 13.423 (Civil and Criminal Penalties).

¹⁴² Berkeley, California, Code of Ordinances, § 3.24.380(B).

circumstances, be fined or held in contempt of court, neither of these remedies necessarily ensures that the historical resource is protected.

A variation on this approach is to give the local government the power, upon securing a judicial decree, to enter onto the owner's property, make necessary repairs or alterations, and then place a lien on the property. Then, before the property can be sold, the local government must be reimbursed.

Forcing Reconstruction

There will be times when preservationists feel that reconstruction is the only adequate remedy in a case when a historical resource (or at least part of it) has been destroyed. While it may be useful to include such a provision in the local ordinance as an option in egregious cases, experience in analogous zoning cases indicates that courts can be expected to enforce such a penalty only under the most exceptional circumstances. In zoning cases, the analogous situation is in reverse: an owner builds a structure in violation of the zoning ordinance, and the court forces it to be demolished. Such a remedy is granted in only the rarest of cases. Most likely, the application of a forced reconstruction provision will be cases of partial demolition, where the building can be repaired to its original state without starting from scratch.

The West Hollywood ordinance contains language that permits a removal order as one alternative method of enforcing the historic resources provisions of the zoning code:

- A. Any person who violates a requirement of this Chapter or fails to obey an order issues by the Advisory Board or comply with a condition of approval of any certificate or permit issues under this chapter shall be guilty of a misdemeanor and subject to provisions of Section 1200(a) of this Code.
- B. Any person who constructs, alters, removes or demolishes a cultural resource in violation of this Chapter shall be required to restore the building, object, site or structure to its appearance or setting prior to the violation. Any action to enforce this provision may be brought by the City of West Hollywood or any other interested party. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty and any other remedy provided by law.¹⁴³

The local government may want to also consider including provisions for the removal (or modification) of new construction within historic districts where such new construction would adversely impact of the historic character of adjacent properties or the district as a whole. Recent cases in other jurisdictions have upheld the authority of local governments to apply such enforcement measures to new construction in historic districts.¹⁴⁴

¹⁴³ West Hollywood, California, Code of Ordinances, § 19.58.180(B).

¹⁴⁴ See, *City of Dayton v. Carroll*, 515 S.E.2d 144 (Ga. 1999).

Loss of Further Entitlement

Especially in cases of demolition, a court may find forced reconstruction of the entire regulated structure to be an impractical remedy; however, a court will have little difficulty imposing a penalty that prohibits redevelopment of a previously regulated property in a way that is detrimental to its historic characteristics or in a way that provides unjust enrichment to the violator. For example, the Palo Alto ordinance restricts future building and development entitlements on a property where a preservation violation has taken place:

Alteration or demolition of a historic structure in violation of this chapter shall eliminate the eligibility of the structure's lot for any transfer of development rights, pursuant to the Palo Alto Comprehensive Plan, and such lot, if it is the site of an unlawfully demolished historic structure from which development rights have been transferred, shall not be developed in excess of the floor area ratio of the demolished structure for a period of twenty years from the unlawful demolition.¹⁴⁵

San Clemente's ordinance provides an additional example:

Any person, whether principal, agent, employee or otherwise, who demolishes a structure on the City's Designated Historic Structures List in violation of Section 17.16.170 Demolition of Historic Properties, shall be guilty of a misdemeanor. In addition, no Building Permit shall be issued for any new development on the property in question for a period of five years from the date the violation occurs, other than as may be required to comply with applicable health and safety requirements and regulations, and in no event shall any permit authorize the new construction to exceed the building square footage, lot coverage, and use of the original structure.¹⁴⁶

MAINTENANCE AND UPKEEP OF HISTORIC PROPERTIES

Many communities impose affirmative maintenance requirements on historic properties to ensure these properties are occupied, looked after, and repaired in a manner that will protect the historic integrity of both the structure and the surrounding area. Courts have been very supportive of ordinances that require general maintenance and upkeep of historic properties. Nevertheless, there are four primary issues to be considered in this area:

- First, communities should be sensitive to the possibility that complex and time-consuming procedures associated with preservation controls may persuade some owners to forego needed repairs simply to avoid the bureaucratic hassle.
- Second, maintenance requirements should be accounted for in the local ordinance and may then be used to set a standard for improvement to historic properties.

¹⁴⁵ Section 16.49.090(a)(4)

¹⁴⁶ San Clemente, California, Code of Ordinances, § 17.16.170(F) (Penalty for Demolition of Historic Structures).

- Third, there may be situations that call for the imposition of affirmative maintenance requirements where, through neglect, historical resources are eroding to a state of being beyond repair—so-called “demolition by neglect.”
- Finally, preservation code drafters should be aware that most local building and health codes allow historical resources to be torn down despite opposition from the local preservation review body, based on the specific finding that the buildings have fallen into such disrepair that they are a threat to public safety.

This section examines these four issues and suggests considerations for drafting local ordinances to avoid associated problems.

Sensitivity to Procedural Requirements

Communities should think carefully about subjecting every minor change or alteration of a historical resource to review by the local preservation commission. The downside of such close scrutiny is that, if owners are forced to obtain a permit for every minor repair to their properties, the results will probably be either that the repairs are not made or are made without a permit. Moreover, burdensome procedures will win the preservation review process no friends politically.

One answer to this problem is to insert an exclusion in the ordinance for ordinary maintenance or minor alterations, as discussed below. The precise language will vary from community to community – based in part on established local procedures for granting building permits. The ordinance might give local officials some leeway in deciding what constitutes a major change that must be reviewed by the preservation commission, or it might exempt improvements below a specified dollar amount unless the impact on the historical resource is significant. As with other operative terms in a preservation ordinance, “ordinary maintenance” should be defined carefully.

Maintenance Requirements

Many local preservation ordinances require that historical resources be maintained in accordance with local building and housing codes. Others go further, specifying a list of structural defects or faults that must be repaired by an owner on a continuing basis. The Pasadena ordinance is typical and creates a broad duty to keep historic resources in good repair.

- A. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of any designated landmark that does not involve a change in design, material, color or appearance thereof; nor the repair of an unsafe or dangerous condition as provided in Section 2.75.330.
- B. Every landmark and historic treasure shall be maintained in good repair by the owner or such other person who has legal possession or control thereof, in order to preserve it against decay and deterioration to the extent practicable.¹⁴⁷

¹⁴⁷ Pasadena, California, Code of Ordinances, § 2.75.150 (Maintenance of landmarks and historic treasures); see also, Santa Monica, California, Code of Ordinances, § 9.36.190 (duty to repair); Berkeley,

Minimum maintenance standards are not particularly controversial from a legal standpoint. The leading case is *Maher v. City of New Orleans*, in which the court rejected an argument that the local ordinance's maintenance provision was unconstitutional:

Once it has been determined that the purpose of the Vieux Carré legislation is a proper one, upkeep of buildings appears reasonably necessary to the accomplishment of the goals of the ordinance.... The fact that an owner may incidentally be required to make out-of-pocket expenditures in order to remain in compliance with an ordinance does not per se render that ordinance a taking. In the interest of safety, it would seem that an ordinance might reasonably require buildings to have fire sprinklers or to provide emergency facilities for exits and light. In pursuit of health, provisions for plumbing or sewage disposal might be demanded. Compliance could well require owners to spend money. Yet, if the purpose be legitimate and the means reasonably consistent with the objective, the ordinance can withstand [an] attack of invalidity.¹⁴⁸

Many other cases from across the country uphold minimum maintenance requirements contained in local building codes. However, that is not the end of the legal inquiry. Notice that the *Maher* court said the regulations could withstand a frontal attack. That was legal shorthand for the proposition that if an owner can show affirmative maintenance requirements are overly burdensome as applied, then they may be invalid. That is the general rule for virtually all building code requirements. A law that obligates owners of new apartment buildings to install expensive smoke detectors, fire and other prevention equipment may be valid on its face, but a court might strike it down as applied retroactively to a small, 50-year-old apartment building on which the rental return is very low. Although courts have almost uniformly upheld tough code provisions despite relatively large expenditures, for the most part, courts apply a reasonableness test in assessing the constitutionality of building code provisions—the importance of the public interest at stake versus the economic burden on the owner. Local review bodies thus should be prepared to defend affirmative maintenance requirements with proof of public need and evidence that rehabilitation is economically feasible, or the local preservation ordinance may include relief provisions in the local ordinance to deal with more difficult cases.

In California, local governments are required to administer and enforce the State Historical Building Code (SHBC). This code is specially tailored to meet the needs of historic properties in need of maintenance and repair. Local preservation ordinances frequently contain language requiring conformance with the SHBC, but even lacking that language, individual owners still have the statutory right to utilize the SHBC.

Maintenance requirements raise another important legal issue related to property inspections. Compliance with most preservation restrictions, notably those relating to demolition or alteration, can be policed with relative ease because violations are

California, Code of Ordinances, § 3.24.290.
¹⁴⁸ 516 F.2d 1051, 1066-67 (5th Cir. 1975).

obvious and usually can be discovered from a public street without entering onto the property itself. But what about cracks in the foundation that threaten a historic building or a leaky roof that might eventually cause serious structural problems? To detect such problems, preservation commissions may include language that allows a program of periodic inspections. In the landmark case of *Camara v. Municipal Court*,¹⁴⁹ the U.S. Supreme Court ruled that the Fourth Amendment did apply to administrative searches and that a warrant based on “administrative probable cause” was required before an inspection could occur.

The Court explained that there is sufficient probably cause to issue a warrant:

...if reasonable legislative or administrative standards for conducting an area inspection are satisfied with respect to a particular dwelling. Such standards...may be based on the passage of time, the nature of the building (e.g., a multifamily apartment house), or the condition of the entire area, but they will not necessarily depend upon specific knowledge of the condition of the particular dwelling. If a valid public interest justifies the intrusion contemplated, then there is probable cause to issue a suitably restricted search warrant.

A periodic inspection program may run into fewer Fourth Amendment objections in practice than in legal theory. Still, it is important that such a program be governed by predetermined standards as suggested in *Camara* to dispel any claim that the program does not meet the requirements announced in that case.

Demolition by Neglect

Many communities in California are seeking guidance on how to address the gradual destruction of historic buildings by property owners who fail to engage in regular maintenance and upkeep of their properties, and who then request a demolition permit on the grounds that rehabilitation of the structure is no longer practicable. In this situation, one alternative is to authorize the jurisdiction to fix neglected properties and then place a lien on the property and recoup the cost of its expenditure at the time the property is sold.

Local commissions will find it very useful if they have the authority to protect a property that is being demolished by neglect. A number of communities have enacted laws that permit a specified local agency to take necessary steps to secure a derelict historical resource against vandalism. Others take the additional step of granting the local government and its preservation agency the power to make repairs and bill the owner. In at least two U.S. cities (Richmond, Virginia, and San Antonio, Texas), the local preservation commission has the power to initiate or recommend condemnation proceedings where demolition by neglect is occurring, allowing the local government to assume ownership of and begin repairs on neglected properties. The viability of these more far-reaching ordinance provisions will generally depend on the economic impact to an owner. Courts may be less inclined to make an owner pay for necessary repairs if

¹⁴⁹ 387 U.S. 523 (1967); see also, Meffert, “Affirmative Maintenance Provisions in Historic Preservation: A Taking of Property?” 34 S.C. L. Rev. 713 (1983).

the chances of earning reasonable return on the property are slim. Nevertheless, courts have not hesitated to impose costs or deny development rights to historical resource owners who have allowed properties to fall into serious disrepair.¹⁵⁰

Fresno's Minimum Maintenance provisions, included below, are a model for creating specific maintenance duties, enumerating areas of neglect that could lead to serious repair costs if left unattended, and also serve as a model of a general regulation prohibiting demolition by neglect.

- a. All designated Historic Resources including Contributors to any Historic District shall be preserved against decay and deterioration, kept in a state of good repair and free from structural defects. The purpose of this section is to prevent an owner or other person having legal custody and control over a property from facilitating demolition of a Historic Resource by neglecting it and by permitting damage to it by weather and vandalism.
- b. Consistent with all other state and city codes requiring that buildings and structures be kept in good repair, the owner or other person having legal custody and control of a property shall repair such building or structure if it is found to have any of the following defects:
 1. Building elements so attached that they may fall and injure members of the public or property.
 2. Deteriorated or inadequate foundation.
 3. Defective or deteriorated flooring.
 4. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
 5. Members of ceilings, roofs, ceiling or roof supports or other horizontal members which sag, split or buckle due to defective materials or deterioration.
 6. Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration.
 7. Deteriorated, crumbling or loose exterior plaster.
 8. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors.
 9. Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
 10. Any fault, defect or deterioration in the building which renders it structurally unsafe or not properly watertight.
- c. If the Commission has reason to believe that a Resource is being neglected and subject to damage from weather or vandalism, the Commission shall direct staff to meet with the owner or other person having legal custody and control of the Resource and to discuss with them the ways to improve the condition of the property. If no attempt or insufficient effort is made to correct any noted conditions thereafter, the Commission may, at a noticed public hearing, make a formal request that the Development Department or other appropriate department or agency take action to require corrections of defects in the subject

¹⁵⁰ *District of Columbia Preservation League v. Department of Consumer and Regulatory Affairs*, 646 A.2d 984 (D.C. App. 1994) (demolition permit for dilapidated structure revoked because building condition was caused by neglect of owner, contrary to D.C. preservation act).

Resource in order that such Resource may be preserved in accordance with this article.¹⁵¹

Public Safety Exclusion

Many local preservation ordinances contain provisions whereby a historical resource declared to be a public hazard can be altered, repaired, or demolished without the local preservation review body having any say whatsoever. The code in Berkeley contains a provision for a public safety exemption from historic preservation regulations, but carefully instructs that the exemption is specifically limited to activities necessary to correct public safety issues (preventing demolition in many cases):

None of the provisions of this chapter shall be construed to prevent any measures of construction, alteration or demolition necessary to correct or abate the unsafe or dangerous condition of any structure, other feature, or part thereof, which such condition has been declared unsafe or dangerous by the planning and community development department or the fire department, and where the proposed measures have been declared necessary, by such department or departments, to correct the said condition; provided, however, that only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any structure or other feature is damaged by fire or other calamity or by an act of God, or by the public enemy to such extent that in the opinion of the aforesaid department or departments it cannot reasonably be repaired or restored, it may be removed in conformity with normal permit procedures and applicable laws.¹⁵²

On their face, public safety exclusions appear reasonable—if a building is about to tumble down on pedestrians below, surely something must be done quickly—but in practice, they are sometimes used by a local government or owner to circumvent local review procedures or to avoid facing up to hard choices between a proposed redevelopment scheme and preservation of an important historical resource.

At a minimum, local preservation ordinances should attempt to strike a balance between concerns about public safety and preservation, perhaps allowing the preservation commission to comment on the proposed demolition unless the legislative body specifically finds there is an immediate and serious threat to the public safety that cannot be addressed through less drastic measures. At least one city, Washington, D.C., has taken an additional step. Its local preservation ordinance provides that the local Board of Condemnation cannot issue permits for demolition of private historical resources except in accordance with the procedures and standards set forth in the preservation law.

¹⁵¹ Fresno, California, Code of Ordinances, § 13.421 (Minimum Maintenance).

¹⁵² Berkeley, California, Code of Ordinances, § 3.24.280 (Landmarks, historic districts or structures of merit – Unsafe or dangerous conditions – Effect); see *also*, Davis, California, Code of Ordinances, § 29-145.17 (Unsafe or dangerous conditions).

DEVELOPMENT MORATORIA AND EMERGENCY DEMOLITION BANS

Several California communities, including Palo Alto most recently, have adopted interim regulations to prevent demolition of historic resources or new construction in historic areas while new permanent regulations are being drafted or a comprehensive historical resources inventory is being prepared. Palo Alto will not process applications for development of a property while designation procedures are taking place under the preservation ordinance, stating in the City code that,

...no building, demolition, or other city permit for a change that would constitute an alteration or demolition of a proposed heritage property shall be issued while the application for designation is pending...¹⁵³

The Redondo Beach ordinance contains a similar provision to suspend the issuance of permits once historic preservation review is initiated:

Once a completed application has been accepted for the designation of a landmark or an historic district, no building, alteration, demolition, removal, or relocation permits for any historic resource, improvement, building, or structure relative to a proposed landmark or within a proposed historic district shall be issued until a final determination is made regarding the proposed designation, except as provided under Article 6 of this chapter.¹⁵⁴

In California, municipal government moratoria on development permits are allowed under the authority of Government Code Section 65858.¹⁵⁵ Courts have also generally upheld such emergency provisions, realizing that surveys, studies, and ordinance drafting may be necessary and cannot be done overnight. A recent U.S. Supreme Court case from California affirmed the ability of local governments to enact temporary moratoria.¹⁵⁶

In jurisdictions where demolitions are ministerial, situations continue to arise in which an owner is able to secure a permit to demolish a potentially significant historic building. When preservation interests learn of the plans, a battle to protect the structure often ensues. In other instances, a preservation commission may announce its intent to study a neighborhood for possible designation as a historic district. Some owners, in an attempt to circumvent anticipated future restrictions, may rush to city hall to secure demolition permits. What can a local government do under these circumstances to protect threatened historical resources without violating the legal rights of property owners?

Surveys take time and can be expensive, and, even when a survey has been completed, it may be several years before identification is translated into designation. What, then, should a local commission do when a building of landmark quality that

¹⁵³ Palo Alto, California, Code of Ordinances, § 16.49.80.

¹⁵⁴ Redondo Beach, California, Code of Ordinances, § 10.4.305 (Delay of work pending hearing).

¹⁵⁵ See, *Bank of the Orient v. Town of Tiburon*, 220 Cal.App.3d 992 [269 Cal.Rptr. 690] (Cal. App. 1990).

¹⁵⁶ *Tahoe-Sierra Preservation Council, Inc., et al. v. Tahoe Regional Planning Agency et al.*, U.S. Supreme Court Docket No. 00-1167, decided April 23, 2002.

enjoys no official protection is threatened with demolition? Provided the Government Code authorization for local government moratoria applies in the given situation, the local government or commission may enact a temporary ban or moratorium that would halt all activities that could be affected by the survey or designation process, including, potentially, revocation of an already issued building permit or halting demolition. The availability of this type of authority in California may be evidenced by Davis's ordinance, which contains the following provision that could potentially halt a wide variety of development activities:

While the commission's public hearing or the City Council's decision on the commission's [designation] recommendation is pending, the City Council upon the commission's recommendation may declare a work moratorium. During the moratorium, any work that would require an alteration permit if the improvement were already designated a historical resource or outstanding historical resource or if it were already located in a historic district shall not be carried out. The work moratorium will end upon the earlier of the City Council's decision on the proposed designation, the moratorium termination date designated by the City Council, or one hundred eighty calendar days from the date of commencement of the moratorium.¹⁵⁷

Invoking emergency demolition bans raises two major legal issues, involving procedural due process and "vested rights." While the constitutional guarantee of due process generally requires that affected persons be given notice and an opportunity to be heard before adoption and application of a restrictive ordinance, it is well established that a governmental body may take temporary emergency action without prior notice or hearing if affected persons are afforded an opportunity to be heard before such action becomes final. For example, as soon as possible after enacting a demolition ban, the local government should afford the owner or developer an opportunity to be heard and contest designation or revocation of a building permit.¹⁵⁸

Assuming that the local government has satisfied procedural due process dictates, it must still face the so-called "vested rights" issue. This arises, for example, when a developer, relying on existing law, spends money in anticipation of demolishing a building of landmark quality. Although there is no such thing as a "vested right" under the U.S. Constitution, most state courts recognize it in some form. If developer has done nothing more than obtain a demolition or building permit, they probably cannot claim a vested right to proceed. If, however, the developer has signed a contract with a demolition company and has spent funds to plan for a new development on the site prior to enactment of the ban, the question is a more difficult one. The vested rights issue can be defused by establishing an administrative proceeding that places the burden on developers to produce evidence that they should be allowed to proceed. In this way, the local government can determine if the facts support its decision to forbid demolition.

¹⁵⁷ Davis, California, Code of Ordinances, § 29-145.11 (Designation Procedures – Work Moratorium).

¹⁵⁸ See, *Selinger v. City Council*, 216 Cal.App.3d 259, 270-71 [216 Cal.Rptr. 499] (Cal. App. 1989).

While valuable and often essential to preservation, moratoria have serious ramifications and thus require forethought. Of equal importance, they should not be used as an excuse to do nothing. The ordinance establishing the moratorium should state the reasons for its invocation, set forth a specific expiration date, and contain a safety valve to allow the preservation commission to deal with hardship cases. From a practical perspective, the types of development or alteration to be prohibited or made subject to review should be carefully delineated.

Administration

Elaborate controls on alterations, strong affirmative maintenance requirements, and tough enforcement provisions may look good on paper but be unworkable in practice if the local government lacks adequate staff or will to enforce the law.

From a practical aspect, local commissions should establish procedures to ensure uniform and efficient enforcement of the preservation law. Communities should consider all options to reduce the administrative burden of monitoring demolition and alterations as well as the affirmative maintenance of hundreds of historical resources. A portfolio of photographs of existing (pre-modification) conditions for each historical resource can often be a useful tool toward this end. If an owner illegally alters a structure, the change will usually show up clearly in photographs. Photos also are very useful evidence in court enforcement proceedings.

What other information should be in the records maintained for each property? Not to be overlooked is the simple fact of who owns each property and where they may be served with legal notice. This information may be crucial if emergency action is necessary to stop an illegal demolition or alteration. The file also should include a history of the property from an enforcement perspective—past violations, inspection results, and so forth.

All this information will be crucial if a case goes to court. It is not uncommon for enforcement cases to be handled by a municipal attorney who is largely unfamiliar with the case and who has little time to brush upon the facts before trial. Thus, whether a case is lost or won may depend on whether the preservation commission and enforcement staff has put together a good factual case. The property file can supply essential evidence, particularly photographs and inspection records. A chronology summarizing the case for the attorney—notices of violation, attempts at voluntary compliance, and the like—will also be very helpful.

A subsidiary issue is who should be liable for the fines or duty to repair. Most land-use ordinances provide that the property owner or person controlling the property, particularly a lessee, can be held liable for violations. In a preservation context, the ordinance drafters should consider allowing actions against entities such as construction firms or demolition companies responsible for illegal demolition or alterations.

Another issue is who should be able to enforce local preservation regulations—the local government, private citizens, or both. Many environmental and land-use laws allow citizens to bring suits to enforce preservation provisions, particularly when the relevant government body has refused or failed to act. Who is empowered to initiate enforcement actions will depend largely on local considerations. Does the local government have adequate resources to enforce the law? Is a citizen suit provision politically feasible? Is it likely that citizens or neighborhood groups would use such a power?

Clearly, municipalities should attempt to enforce preservation restrictions as evenhandedly as possible. Failure to do so should not lead to wholesale invalidation of such restrictions, but in close cases in which compliance would, for example, create a serious economic hardship, the courts may be hesitant to enforce the local law.

SECTION 9: DEFINITIONS AND SEVERABILITY

DEFINITIONS

Effective local preservation ordinances will contain a thorough and carefully conceived set of definitions for essential terms. Nationally, court cases have shown that it is not sufficient to rely on common sense where terms may be subject to judicial challenge. A District of Columbia court, for example, found that a proposal to completely gut an historical hotel, leaving only the façade standing, was not subject to the preservation ordinance because the D.C. ordinance at the time applied only to “alterations.” The court found that the proposal was a “demolition” and therefore specifically exempted from preservation regulations. According to an Ohio case, signs in an historic district were not subject to the rules of a local preservation ordinance because the ordinance applied to only “buildings” and “structures.” In both these cases the authority of a local preservation ordinance was diminished without adequate definitions to clarify its intent.

The ordinance should clearly define the distinctions between alterations and demolitions, and should clarify the types of buildings, structures, signs, or other features that are regulated under the ordinance. Other essential terms that should be defined in a typical ordinance include (but are not limited to):

- “Historical resource” (or “landmark,” “historical monument,” or other term used in the local ordinance to designate a property of preservation quality),
- “Contributing building or structure,”
- “Significant features or characteristics,”
- “Structure of merit,”
- “Dangerous building,”
- “Certificate of appropriateness,”
- “Project” (or “development”),
- “Environmental change,” and
- “Affected property.”

Most preservation ordinances also contain a set of definitions for the various actors in the preservation process. Terms such as “applicant,” “planning director,” and “preservation commission” are routinely defined, often in a shortened form for convenience (*i.e.*, “commission” for preservation commission). Local governments that authorize an “interested party” or “aggrieved party” to file appeals should also define those terms, as appropriate.

CALIFORNIA CODE EXCERPT: DEFINITIONS

City of Danville
32-72.2 Definitions.

As used in this chapter, the following words and phrases have the following meanings:

Alteration shall mean any demolition, exterior change or modification to a historically significant resource or heritage resource or of a contributing property located within an historic district including, but not limited to:

1. Exterior changes to or modifications of structure, architectural details or visual characteristics including paint color and surface texture;
2. Grading or surface paving;
3. Construction of new structures;
4. Cutting or removal of trees and other natural features;
5. Disturbance of archaeological sites or areas; and
6. The placement or removal of any exterior objects including signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories that affect the exterior visual qualities of the property.

Architectural feature shall mean the architectural elements embodying style, design, general arrangements and components of the exterior of any building or structure, including, but not limited to, the kind, color and texture of the building materials and the style and type of all windows, doors, lights, signs and other fixtures.

Certificate of Approval shall mean a certificate issued pursuant to this chapter approving any proposed alteration to a historically significant resource, a heritage resource or a contributing property located within a historic district.

Contributing property shall mean a building, structure, site, feature or object within an historic district that embodies the significant physical characteristics and features, or adds to the historical associations, historic architectural qualities or archaeological values identified for the historic district, and was present during the period of significance, relates to the documented significance of the property, and possesses historic integrity or is capable of yielding important information about the period.

Design guidelines shall mean the “Town of Danville Design Guidelines for Heritage Resources” adopted by the Town and as may be amended from time to time.

Heritage resource shall mean a structure, site, improvement or natural feature that has been designated for heritage preservation pursuant to Section 32-72.6. Heritage Resource Commission (HRC) shall mean the Town’s Heritage Resource Commission established pursuant to the provisions of this Code...

Other terms will require definition based on the specific policies enacted in a local preservation ordinance. For example, if a local jurisdiction elects to provide an administrative process for economic hardship claims, then such terms as “economic hardship” and “reasonable return” should be defined. Similarly, if a timetable for appeals is incorporated into the ordinance, definitions should be provided for “business days” or other measure of time used in the appeals section. Finally, the definitions section may be used to provide for a shortened version of any phrase used multiple times within the

ordinance (e.g., “Secretary’s Standards” refers to the Secretary of the Interior’s Standards for the Treatment of Historic Properties).

Placement of the definitions section at the end of a preservation ordinance, like a glossary in a book, is recommended as a way to clarify that the definitions are uniformly applicable to all provisions of the preservation ordinance. Where a preservation ordinance is codified within a larger development or zoning code, it is advisable to incorporate preservation-related definitions within the general definitions section of the overall ordinance. Consolidating all definitions within a single section is an effective way to identify and eliminate potentially conflicting uses of the same or similar terms.

Another way to eliminate potential confusion is to use terms and definitions shared by the National Register, the California Register, and the CEQA guidelines. These definitions are commonly understood and have withstood the test of time and judicial challenges. When the ordinance uses the same terms and definitions as used in CEQA, it facilitates environmental reviews and promotes better understanding among decision makers, consultants, and members of the community.

SEVERABILITY

It is important to include a severability statement to protect the ordinance as a whole in case a particular section is later determined to be unconstitutional or void. Danville, Fresno, and Davis all include the following language in their ordinances:

If any section, subsection, subdivision, paragraph, clause or phrase in this ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this ordinance or any part thereof. The Town 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 any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

CONCLUSION

Because historic preservation takes place at the local level, the ordinance is perhaps the most important tool in developing and implementing a successful preservation program. Because communities have different preservation goals and issues, no single “model” ordinance exists. However, as demonstrated throughout this manual, there are key issues that all jurisdictions will want to address.

Below is a checklist which can be used to analyze existing or draft ordinances. Note that in some communities, key elements of the preservation process may be found in other local ordinances and regulations.

ORDINANCE REVIEW CHECKLIST

JURISDICTION

REVIEWER

DATE OF REVIEW		Comments
STATEMENT OF PURPOSE/ GOALS	<input type="checkbox"/>	
Legitimate Purpose of Government	<input type="checkbox"/>	
Resource types to be protected	<input type="checkbox"/>	
Survey & inventory	<input type="checkbox"/>	
How to protect	<input type="checkbox"/>	
ENABLING AUTHORITY – LEGAL BASIS	<input type="checkbox"/>	
ESTABLISH PRESERVATION COMMISSION	<input type="checkbox"/>	
Powers & Authority	<input type="checkbox"/>	
Existing zoning and land use regulations/tools	<input type="checkbox"/>	
Level of authority	<input type="checkbox"/>	
Monitoring	<input type="checkbox"/>	
Enforcement	<input type="checkbox"/>	
Duties	<input type="checkbox"/>	
Qualifications of commissioners	<input type="checkbox"/>	
Terms of service	<input type="checkbox"/>	
Relationship to other Loc Gov. LUP entities	<input type="checkbox"/>	
PROCEDURES & CRITERIA FOR DESIGNATION	<input type="checkbox"/>	
Property types to be protected	<input type="checkbox"/>	
Criteria for eligibility	<input type="checkbox"/>	
Interiors	<input type="checkbox"/>	
Who may apply/nominate	<input type="checkbox"/>	
Application/nomination format	<input type="checkbox"/>	
Owner Consent/objection	<input type="checkbox"/>	
Public notice	<input type="checkbox"/>	
Fees	<input type="checkbox"/>	
Alternatives to designation	<input type="checkbox"/>	

Recordation	<input type="checkbox"/>
PROCEDURES & CRITERIA FOR REVIEWABLE ACTIONS	<input type="checkbox"/>
Actions Subject to Review Defined	<input type="checkbox"/>
Demolition/Major alteration	<input type="checkbox"/>
New construction in historic districts or areas	<input type="checkbox"/>
Design review	<input type="checkbox"/>
Cumulative effects	<input type="checkbox"/>
Hazardous/Unsafe Conditions	<input type="checkbox"/>
Review Authority (Binding or Advisory)	<input type="checkbox"/>
Legal Effects of Review	<input type="checkbox"/>
Process	<input type="checkbox"/>
Fees	<input type="checkbox"/>
CONSIDERATION OF ECONOMIC EFFECTS	<input type="checkbox"/>
Incentives	<input type="checkbox"/>
Extreme economic hardship	<input type="checkbox"/>
Provisions to prevent mothballing	<input type="checkbox"/>
Inverse condemnation	<input type="checkbox"/>
APPEAL PROCEDURE	<input type="checkbox"/>
Administrative resolution of contested decisions	<input type="checkbox"/>
ENFORCEMENT	<input type="checkbox"/>
How to ensure compliance	<input type="checkbox"/>
Required Maintenance	<input type="checkbox"/>
Cures/penalties for Demolition by Neglect	<input type="checkbox"/>
Penalties	<input type="checkbox"/>
Recordation	<input type="checkbox"/>
DEFINITIONS – KEY TERMS	<input type="checkbox"/>
SEVERABILITY	<input type="checkbox"/>
OTHER	<input type="checkbox"/>
Preservation Elements in Other Ordinances?	<input type="checkbox"/>

The Certified Local Government Program (CLG)

Benefits and Requirements

Jointly administered by the National Park Service and the State OHP, the Certified Local Government (CLG) program seeks to encourage preservation through partnership. The program was designed to encourage local governments to establish policies and procedures for the identification, registration, and preservation of historic properties. A local government becomes a CLG by developing and implementing a local historic preservation program based on Federal and State standards.

In order to qualify as a CLG, each city must meet the following minimum requirements:

1. Establish a Historic Preservation Commission including 5 members with interest in historic preservation and at least 2 members who are professionals in history, architecture or planning.
2. Establish process and procedures for the designation and protection of historic properties; including enforcing relevant state and local laws pertaining to historic resources;
3. Maintain a survey and inventory of historic properties
4. Provide the opportunity for public participation in the Local Historic Preservation program;
5. Perform the responsibilities designated by the State OHP in their CLG procedures, primarily the preparation of an annual report).

Advantages:

1. Eligibility for annual federal grants up to \$40,000 (with a 40% match required from the local agency) from the Historic Preservation Fund, which is administered by OHP to carry out citywide surveys, preparation of a focused Manhattan Beach historic context statement, feasibility studies, Walking Tour brochures, training, educational plans, and/or specialized preservation projects or nominations. Approximately 12 grant applications are received each year from approximately 66 CLGs across California; therefore, chances of receiving a grant are likely.
2. Technical assistance - The State OHP would be an active partner in providing advice and support for the City's preservation program. This support would include technical expertise and assistance in preservation-related initiatives, including the nomination of historic properties to the National Register of Historic Places; special assistance and training for local Preservation Commission members and staff; and potential for participation in the review of building rehabilitation plans for Federal investment tax credits.
3. Preservation prestige - This is the fastest way to improve Los Angeles Conservancy report card grade as the City's current grade is an "F".

Disadvantages:

Cities across California report few disadvantages to having CLG status. The annual reporting requirement entails some staff time and coordination; but, as indicated by other cities, the ongoing record-keeping throughout the year lends itself easily to preparation of an annual report.

Agenda Date: 2/17/2015

TO:

Honorable Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Honorable Mayor Powell

SUBJECT:

Request by Mayor Powell to Send Letters or Adopt Resolution Supporting the Los Angeles Air Force Base and the Space and Missile Systems Center and Opposing Their Closure or Relocation.

DISCUSS AND PROVIDE DIRECTION

RECOMMENDATION:

To approve the sending of letters or the adoption of a Resolution supporting the Los Angeles Air Force Base and the Space and Missile Systems Center and Opposing their Closure and Relocation.

DISCUSSION:

Request for the City Council to discuss and provide direction to staff.

Attachments:

1. Greensheet LAAFB

MOTION BY SUPERVISOR DON KNABE

February 3, 2015

The Los Angeles Air Force Base (LAAFB) and the Space and Missile Systems Center (SMC) are critical assets to the aerospace industry and the nation's ability to design the military technology necessary to adequately provide for our national defense. The biggest asset to our country's safety, possessed by the LAAFB and SMC, is its unmatched skilled workforce based in Los Angeles. This brain trust, consisting of 5,879 directly employed military, civilian, and contractor workers and 11,776 indirectly employed, has made its home in Los Angeles and would be unlikely to migrate anywhere else if either the LAAFB or SMC moved some of its operations. This localized, highly skilled workforce is essential to the success of the LAAFB and the SMC, and has time and again proven itself crucial to the defense of the United States of America.

The SMC has provided the nation with highly sophisticated intelligence gathering infrastructure that has significantly contributed to the U.S. military's advancement in

MOTION

SOLIS _____

RIDLEY-THOMAS _____

KUEHL _____

KNABE _____

ANTONOVICH _____

missions such as Operation Desert Storm and Operation Iraqi Freedom where SMC is noted as having added “unimaginable speed and precision to American military operations” through the use of space-based surveillance, communications, navigation and meteorology.

As national defense continues to rely more on intelligence gathering, the role SMC has played in developing, acquiring, fielding and sustaining our military space systems cannot be overstated. SMC has proven to be a critical infrastructure asset to our national defense both in the past as well as for the foreseeable future.

LAAFB’s and SMC’s location also bolsters its strategic importance to our national defense due to the following factors:

- Los Angeles County remains the top location for aerospace and defense in the nation—still home to major prime contractor operations, such as Northrop Grumman, Lockheed Martin, Boeing, Raytheon, and Honeywell, as well as home to more small and mid-sized companies in the A&D supply chain than anywhere else in the nation.
- Los Angeles County also graduates more engineers than any other region and has developed sophisticated programs at community colleges and universities to meet the needs of the aerospace and defense industry well into the future.
- The proximity to a significantly large aerospace and defense ecosystem of companies coupled with an unmatched skilled workforce available only in L.A. provide the LAAFB with unparalleled built-in benefits to advance its mission.

Los Angeles provides vital talent and connections to the largest aerospace manufacturing base in the country to the LAAFB and SMC, which can be found nowhere else. Similarly, the Los Angeles Air Force base is a Los Angeles icon, keeping our region connected to the armed forces and the women and men who keep our country safe.

History has shown us that we must be forever vigilant so that this incredible asset to our national security and regional economy is not threatened by closure or relocation.

I, THEREFORE, MOVE that the Board of Supervisors send a five signature letter to Secretary of Defense Chuck Hagel and Secretary of the Air Force Deborah Lee James expressing our firm support for the Los Angeles Air Force Base and stating that any relocation attempt of the Space and Missile Systems Center would be detrimental to national defense and the mission of the Los Angeles Air Force Base.

I, THEREFORE, FURTHER MOVE that the Board of Supervisors send a five-signature letter to the Mayors of the County's eighty-eight cities encouraging them to pass resolutions in support of the Los Angeles Air Force Base and the Space and Missile Systems Center to the Secretaries of Defense and the Air Force.

#

SUP:DK

Agenda Date: 2/17/2015

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Bruce Moe, Finance Director

SUBJECT:

Financial Reports:

- a) Schedule of Demands: January 29, 2015
- b) Investment Portfolio for the Month Ending December 31, 2014
- c) Financial Reports for the Month Ending December 31, 2014
(Finance Director Moe).

RECEIVE AND FILE

RECOMMENDATION:

Staff recommends that the City Council ratify the attached schedule of demands, and receive and file these reports.

FISCAL IMPLICATIONS:

The financial reports included herein are designed to communicate fiscal activity based upon adopted and approved budget appropriations. No further action of a fiscal nature is requested as part of this report.

The total value of the warrant register for January 29, 2015 is \$3,003,010.43.

BACKGROUND:

Finance staff prepares a variety of financial reports for City Council and Finance Subcommittee. A brief discussion of the enclosed reports follows.

DISCUSSION:

Ratification of Demands:

Every two weeks staff prepares a comprehensive listing of all disbursements (warrant and payroll registers) with staff certification that the expenditure transactions listed have been reviewed and are within budgeted appropriations.

Investment Portfolio:

Detailed Investment reports are provided to the Finance Subcommittee with summary reporting to City Council. The month end portfolio includes a certification by the Finance Director that all investments comply with established Investment Policies (or with Finance Subcommittee approved exceptions) and there is sufficient liquidity to support projected expenditures.

Financial Reports:

This package includes summary level financial reports for the month ending December 31, 2014. These reports mark the sixth month of the 2014-2015 fiscal year and reflect the annual budget adopted by City Council.

These reports provide monthly and year-to-date activity for all funds and departments presenting a snapshot of budget performance. A report highlighting the performance of key revenue sources is also included.

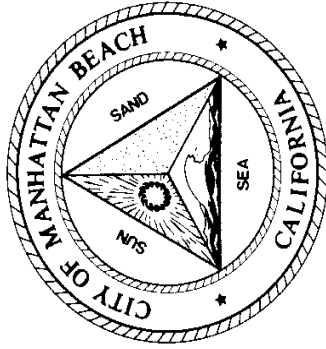
CONCLUSION:

Staff recommends that the City Council receive and file the attached financial reports.

Attachments:

1. Schedule of Demands for January 29, 2015
2. Investment Portfolio for the Month Ending December 31, 2014
3. Financial Reports for the Month Ending December 31, 2014

City of Manhattan Beach




Schedule of Demands January 29, 2014


CITY OF MANHATTAN BEACH
WARRANT REGISTER

WARRANT(S) WR 16B
DATED: 01/29/2015

I HEREBY CERTIFY THAT THE CLAIMS OR DEMANDS COVERED BY THE ABOVE WARRANT(S) IN THE AMOUNT OF \$3,003,010.43 HAVE BEEN REVIEWED AND THAT SAID CLAIMS OR DEMANDS ARE ACCURATE, ARE IN CONFORMANCE WITH THE ADOPTED BUDGET, AND THAT THE FUNDS ARE AVAILABLE THEREOF.



FINANZE DIRECTOR



CITY MANAGER

THIS 17TH DAY OF FEBRUARY

WARRANT REGISTER(S)	WR 16B	WARRANT(S)	16B	1,823,064.84
		PREPAID WIRES / MANUAL CKS	16B	411,276.86
		SUBTOTAL WARRANTS		<u>2,234,341.70</u>
		VOIDS	16B	(66.00)
		PAYROLL	PY	768,734.73
		TOTAL WARRANTS		<u><u>3,003,010.43</u></u>

CITY OF MANHATTAN BEACH
WARRANT REGISTER

WARRANT BATCH NUMBER:

WR 16b

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
12815	1/28/2015	T	CMB RISK MGMT LIABILITY	MONTHLY DISBURSAL - LIABILITY DEC	49,408.34
20215	2/2/2015	T	UNION BANK	F.I.T./MEDICARE/S.I.T.	224,566.48
1282015	1/28/2015	T	CMB RISK MGMT WORKERS COMP	MONTHLY DISBURSAL - WORKERS COMP J	137,302.04
SUBTOTAL					411,276.86
517598	1/29/2015	N	213 MB BLVD PARTNERS LLC	UTILITY BILL OVERPAYMENT REFUND	1,023.63
517599	1/29/2015	N	ADAMSON POLICE PRODUCTS	POLICE EQUIPMENT	3,479.84
517600	1/29/2015	N	ADLERHORST INTERNATIONAL INC	REGISTRATION-K-9 AGITATOR TRAINING	300.00
517601	1/29/2015	N	ADMINISTRATIVE SERVICES COOP	DIAL A RIDE SUPPLEMENTAL CAB SERVICE	980.10
517602	1/29/2015	N	ADMINSURE INC	CLAIMS ADMINISTRATION	10,273.15
517603	1/29/2015	N	ADPI WEST INC	AMBULANCE BILLING-DEC 2014	3,223.67
517604	1/29/2015	N	AKHOIAN ENTERPRISES INC	REFUND RIGHT OF WAY DEPOSIT	496.00
517605	1/29/2015	N	AMERICAN VAN EQUIPMENT INC	CSI V# 231 SHELVING	2,342.72
517606	1/29/2015	N	AM-TEC TOTAL SECURITY INC	CONTRACT SERVICES	747.26
517607	1/29/2015	N	ANI ACQUISITION SUB DOCULYNX	CONTRACT SERVICES-DOC IMAGING	1,175.74
517608	1/29/2015	N	ANTHONY'S READY MIX	CONCRETE	2,639.42
517609	1/29/2015	N	ASSA ABLOY ENTRANCE SYSTEMS US	RFP# 738-08 AUTOMATIC DOOR MAINTEN/	2,414.06
517610	1/29/2015	N	AT&T	REVERSE 911 PHONE UPDATES	302.49
517611	1/29/2015	N	SHIRLEY BAKER	PARKS & RECREATION REFUND	66.00
517612	1/29/2015	N	BROADCAST MUSIC INC	MUSIC LICENSING	335.00
517613	1/29/2015	N	BURLINGTON SAFETY LABS	EQUIPMENT TESTING	345.50
517614	1/29/2015	N	CA BLDG STANDARDS COMMISSION	4TH QTR BSA FEES	590.00
517615	1/29/2015	N	CA FIRE CHIEFS ASSOCIATION	ANNUAL MEMBERSHIP DUES	100.00
517616	1/29/2015	N	CA NEWSPAPER PARTNERSHIP	ADVERTISING	2,752.00

**CITY OF MANHATTAN BEACH
WARRANT REGISTER**

WR 16b

WARRANT BATCH NUMBER:

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
517617	1/29/2015	N	ROBERT CALDWELL	PARKS & RECREATION REFUND	50.00
517618	1/29/2015	N	CALPERS	SURVIVOR BENEFIT DUES 7/1/14-6/30/15	1,800.00
517619	1/29/2015	N	CAROLYNA MESSINA & ASSOC INC	PROFESSIONAL SERVICES	3,893.75
517620	1/29/2015	N	TIM CHOU	PARKS & RECREATION REFUND	50.00
517621	1/29/2015	N	CITY OF MANHATTAN BEACH	PETTY CASH REPLENISHMENT	590.01
517622	1/29/2015	N	CITYGATE ASSOCIATES LLC	PREPARATION SERVICES	821.63
517623	1/29/2015	N	CLE ELECTRIC INC	ON-CALL ELECTRICIAN	26,910.75
517624	1/29/2015	N	CLEAN ENERGY	FUEL PURCHASES-NOV 2014	941.35
517625	1/29/2015	N	CLEANSSTREET	LANDSCAPE SERVICES EXTRAS	31,666.08
517626	1/29/2015	N	CLINICAL LAB OF SAN BERNARDINO	WATER QUALITY TESTING SERVICES CON	3,232.37
517627	1/29/2015	N	DORENE G COLES	YOGA INSTRUCTOR	2,494.80
517628	1/29/2015	N	CORELOGIC INFO SOLUTIONS INC	CONTRACT SERVICES-WIN2DATA	500.00
517629	1/29/2015	N	HORTENSIA CORTEZ	OVERPAYMENT AMBULANCE BILLING	141.48
517630	1/29/2015	N	COUNTY OF LOS ANGELES	CONTROLLED SUBSTANCE CHARGES	594.00
517631	1/29/2015	N	DEBBIE CREEM	CASH KEY REFUND	58.00
517632	1/29/2015	N	CROWN BLDG MAINTENANCE CO INC	JANITORIAL SERVICES EXTRAS	22,013.50
517633	1/29/2015	N	JOE DELIA	POLYGRAPH EXAM	200.00
517634	1/29/2015	N	DELTA DENTAL OF CALIFORNIA	DENTAL PREMIUMS	28,427.40
517635	1/29/2015	N	DEPARTMENT OF CONSERVATION	4TH QTR 2014 SEISMIC FEES	118.19
517636	1/29/2015	N	DEPARTMENT OF TRANSPORTATION	TRAFFIC SIGNAL MAINTENANCE	6,098.56
517637	1/29/2015	N	DOWNTOWN MB BUS & PROF ASSN	MB FIT INITIATIVE	150.00
517638	1/29/2015	N	JOHN J DRISCOLL	REFUND RIGHT OF WAY DEPOSIT	427.00

CITY OF MANHATTAN BEACH
WARRANT REGISTER

WARRANT BATCH NUMBER:

WR 16b

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
517639	1/29/2015	N	DUTHIE ELECTRIC SERVICES	GENERATOR RENTAL & REPAIRS	11,696.37
517640	1/29/2015	N	EDUCATIONAL CREDIT MGMT CORP	EARNINGS WITHHOLDING	435.10
517641	1/29/2015	N	EQUARIUS WATERWORKS	MAINTENANCE SUPPORT	3,598.00
517642	1/29/2015	N	R FIESELMAN	STREET SWEEPING REIMBURSEMENT	134.47
517643	1/29/2015	N	FIRE INFO SUPPORT SERVICES INC	FIRERMS SUPPORT & MAINTENANCE CON	3,930.00
517644	1/29/2015	N	FLEMING ENVIRONMENTAL INC	ENVIRONMENTAL INSPECTIONS CERTIFIC	1,777.46
517645	1/29/2015	N	GAELIC CONSTRUCTION	REFUND CREDIT CARD OVERCHARGE	45.00
517646	1/29/2015	N	GARDA CL WEST INC	ARMORED SERVICE-DEC 2014	335.84
517647	1/29/2015	N	HAZEN AND SAWYER PC	CONSULTING SERVICES	4,999.00
517648	1/29/2015	N	JAKE HERRON	FIRE RESERVE	175.00
517649	1/29/2015	N	RICHARD HESSENIUS	STREET SWEEPING REIMBURSEMENT	145.74
517650	1/29/2015	N	JUSTIN HIDALGO	REIMBURSEMENT	73.44
517651	1/29/2015	N	HONEYWELL INTERNATIONAL INC	HVAC MAINTENANCE & REPAIR	3,263.42
517652	1/29/2015	N	ICMA RETIREMENT TRUST - 401	DEFERRED COMP 108075: PAYMENT	673.08
517653	1/29/2015	N	ICMA RETIREMENT TRUST - 401	DEFERRED COMP 109365: PAYMENT	3,019.88
517654	1/29/2015	N	ICMA RETIREMENT TRUST - 457	DEFERRED COMP AND LOAN REPAY 457	65,881.53
517655	1/29/2015	N	ICMA RETIREMENT TRUST 401	DEFERRED COMP 109766: PAYMENT	5,351.98
517656	1/29/2015	N	INFOSEND INC	UB BILL/WEB PORTAL	5,524.17
517657	1/29/2015	N	IPS GROUP INC	PARKING METER CC FEES	15,926.12
517658	1/29/2015	N	JOAN STEIN JENKINS	PROSECUTION SERVICES	6,116.20
517659	1/29/2015	N	VICTORIA HELEN JOHNSON	ARTHRITIS INSTRUCTOR	570.00
517660	1/29/2015	N	KAISER PERMANENTE	OVERPAYMENT AMBULANCE BILLING	1,758.08

**CITY OF MANHATTAN BEACH
WARRANT REGISTER**

WR 16b

WARRANT BATCH NUMBER:

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
517661	1/29/2015	N	JENNIFER KALLOK	EARNINGS WITHHOLDING	184.62
517662	1/29/2015	N	POWER KIM	STREET SWEEPING REIMBURSEMENT	131.52
517663	1/29/2015	N	KING FENCE INC	FENCE RENTAL	30.00
517664	1/29/2015	N	LYNN KLEINER	PARKS & RECREATION REFUND	300.00
517665	1/29/2015	N	TAYLOR KLOSOWSKI	REIMBURSEMENT	73.44
517666	1/29/2015	N	FRANK KLUTKA	STREET SWEEPING REIMBURSEMENT	271.06
517667	1/29/2015	N	GREGORY KORENEVSKY	STREET SWEEPING REIMBURSEMENT	71.88
517668	1/29/2015	N	NELLY KORENEVSKY	DANCE INSTRUCTOR	806.40
517669	1/29/2015	N	KEVIN H KUROMI	RFP# 755-09 GRAPHIC DESIGN SERVICES	3,525.00
517670	1/29/2015	N	LA COUNTY	PARKING CONCESSION FEE-2ND QTR	32,500.00
517671	1/29/2015	N	LA COUNTY DEPT OF P W	TRAFFIC SIGNAL MAINTENANCE	9,502.46
517672	1/29/2015	N	LA COUNTY MTA	DEC 2014 E-Z PASS	420.00
517673	1/29/2015	N	LA COUNTY MTA	DEC 2014 TAP	80.00
517674	1/29/2015	N	LA COUNTY SHERIFFS DEPT	POLICE DEPT JAIL SUPPLIES	578.20
517675	1/29/2015	N	LA COUNTY SHERIFF'S OFFICE	EARNINGS WITHHOLDING	87.50
517676	1/29/2015	N	LANCE SOLL & LUNGHARD LLP	AUDIT SERVICES	4,462.00
517677	1/29/2015	N	LATITUDE GEOGRAPHICS GROUP LTD	INTRANET GIS MAPPING APPLICATION EN	17,800.00
517678	1/29/2015	N	LIEBERT CASSIDY WHITMORE	LEGAL SERVICES	3,803.00
517679	1/29/2015	N	TIM LILLIGREN	PARKS & RECREATION REFUND	14.00
517680	1/29/2015	N	LOGIX SECURITY INC	SECURITY MONITORING	510.00
517681	1/29/2015	N	LOOP CAPITAL MARKETS LLC	REMARKETING FEES OCT-DEC 14	1,184.78
517682	1/29/2015	N	LYNN KLEINERS MUSIC RHAP INC	MUSIC INSTRUCTOR	3,024.00

**CITY OF MANHATTAN BEACH
WARRANT REGISTER**

WR 16b

WARRANT BATCH NUMBER:

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
517683	1/29/2015	N	M B POLICE MGMT ASSC	DUES \$ (POL MGT ASSN): PAYMENT	280.00
517684	1/29/2015	N	M B POLICE OFFICERS ASSOCIA	DUES \$ (POLICE FIXED): PAYMENT	5,948.92
517685	1/29/2015	N	MARINE RESOURCES INC	TEMPORARY EMPLOYEE SERVICES	12,163.49
517686	1/29/2015	N	PETER MATLACK	STREET SWEEPING REIMBURSEMENT	143.85
517687	1/29/2015	N	MBPOA RETIREE	MD TRUST (MED TRUST): PAYMENT	2,550.00
517688	1/29/2015	N	FRANCISCO MEDINA	REIMBURSEMENT-DRIVER TRAINING	178.66
517689	1/29/2015	N	MERCHANTS LANDSCAPE SVCS INC	LANDSCAPE SERVICES EXTRAS	43,663.07
517690	1/29/2015	N	BELINDA MITCHELL	STREET SWEEPING REIMBURSEMENT	69.48
517691	1/29/2015	N	ANA ELIZABETH MOLINA	AMBULANCE OVERPAYMENT	84.88
517692	1/29/2015	N	OCCU-MED LTD	CONTRACT SERVICES	211.00
517693	1/29/2015	N	CARLOS OLIVARES	REIMBURSEMENT-TRAVEL EXPENSE	76.00
517694	1/29/2015	N	PARKHOUSE TIRE INC	AUTO PARTS & SERVICE	304.50
517695	1/29/2015	N	POSTMASTER	POSTAGE PERMIT	12,130.81
517696	1/29/2015	N	PROVIDENCE MEDICAL INSTITUTE	MEDICAL SERVICES	163.00
517697	1/29/2015	N	PUBLIC EMPLOYEES'	PENSION CONTRIBUTION SAFETY: PAYME	278,763.08
517698	1/29/2015	N	PUBLIC EMPLOYEES'	MEDICAL PREMIUMS	284,403.39
517699	1/29/2015	N	RESCUE ROOTER	PLUMBING SERVICES	950.00
517700	1/29/2015	N	ULYSSES RIVAS	REIMBURSEMENT	125.00
517701	1/29/2015	N	ROADWAY CONSTRUCTION	REFUND RIGHT OF WAY DEPOSIT	496.00
517702	1/29/2015	N	ROUTEMATCH SOFTWARE INC	DIAL-A RIDE SOFTWARE	375.00
517703	1/29/2015	N	SBRPCA	COMMUNICATIONS EQUIPMENT	19,079.68
517704	1/29/2015	N	ADAM SEAR	PARKS & RECREATION REFUND	300.00

CITY OF MANHATTAN BEACH
WARRANT REGISTER

WARRANT BATCH NUMBER:

WR 16b

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
517705	1/29/2015	N	SELECTIVE GIFT INSTITUTE	EMPLOYEE AWARDS & EVENTS	75.00
517706	1/29/2015	N	LINDA SIMON	PARKS & RECREATION REFUND	118.00
517707	1/29/2015	N	SMART SOURCE OF CALIFORNIA LLC	PRINTING AND DIRECT MAILING SERVICE	18,287.09
517708	1/29/2015	N	SOUTH BAY CTR FOR DISPUTE RESO	CONTRACT SERVICES	1,700.00
517709	1/29/2015	N	SOUTH BAY FORD INC	AUTO PARTS & SERVICE	2,390.35
517710	1/29/2015	N	SOUTHERN CALIFORNIA EDISON	STREET LIGHTING CHARGES	25,687.61
517711	1/29/2015	N	SOUTHERN CALIFORNIA EDISON	MONTHLY ELECTRIC CHARGES	108.66
517712	1/29/2015	N	SOUTHERN CALIFORNIA EDISON	GLARE SHEILD REQUEST	172.00
517713	1/29/2015	N	STANDARD INSURANCE COMPANY	STD PREMIUMS	987.04
517714	1/29/2015	N	STANDARD INSURANCE COMPANY	LIFE AD&D LTD PREMIUMS	11,991.55
517715	1/29/2015	N	STATE BOARD OF EQUALIZATION	USE TAX-2ND QTR FYE 2015	4,638.00
517716	1/29/2015	N	STATE BOARD OF EQUALIZATION	UNDERGROUND STORAGE TANK MAINT F	1,331.11
517717	1/29/2015	N	STATE DISBURSEMENT UNIT	EARNINGS WITHHOLDING	1,842.54
517718	1/29/2015	N	STATE OF CALIFORNIA	CONTRACT SERVICES	320.00
517719	1/29/2015	N	STEPHAN T HONDA MD INC	MEDICAL SERVICES	610.00
517720	1/29/2015	N	SULLY MILLER CONTRACTING CO	ASPHALT/EMULSION	403.04
517721	1/29/2015	N	SUN ENGINEERING	REFUND RIGHT OF WAY DEPOSIT	427.00
517722	1/29/2015	N	SUPERIOR COURT OF CA-CO OF LA	CITATION SURCHARGE-DEC 2014	58,434.20
517723	1/29/2015	N	SUSAN SAXE CLIFFORD PHD	APPLICANT PSYCH EXAM	425.00
517724	1/29/2015	N	THE EDGE FITNESS TRAINING	FITNESS INSTRUCTOR	642.60
517725	1/29/2015	N	THE GAS COMPANY	MONTHLY CHARGES	676.04
517726	1/29/2015	N	THE PITNEY BOWES BANK INC	POSTAGE FUND RESERVE ACCOUNT	8,000.00

**CITY OF MANHATTAN BEACH
WARRANT REGISTER**

WR 16b

WARRANT BATCH NUMBER:

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
517727	1/29/2015	N	TORRANCE MEMORIAL MEDICAL CNTR	MEDICAL SERVICES	1,411.25
517728	1/29/2015	N	XAVIER TOSCANO	PARKS & RECREATION REFUND	50.00
517729	1/29/2015	N	TOTAL ADMINISTRATIVE SVCS CORP	CHILD125 (CHILD 125 PLAN): PAYMENT	7,869.92
517730	1/29/2015	N	TRAFFIC MANAGEMENT INC	TRAFFIC CONTROL	920.00
517731	1/29/2015	N	TRUELINE	WINDSCREEN REPLACEMENT	2,448.00
517732	1/29/2015	N	THOMAS EDWARD TRULOVE	CERAMICS INSTRUCTOR	878.80
517733	1/29/2015	N	TURBO DATA SYSTEMS INC	CITATION PROCESSING-DEC 2014	10,857.03
517734	1/29/2015	N	U.S. BANK	P/T EMP RETIREMENT CONTRIB: PAYMEN	3,512.77
517735	1/29/2015	N	UC REGENTS	NURSE EDUCATOR CONTRACT	2,386.40
517736	1/29/2015	N	UNION BANK NA	MARINE LOC FEE 10/1/14-12/31/14	17,437.01
517737	1/29/2015	N	UNITED SITE SVCS OF CA INC	PORTABLE RESTROOMS	180.04
517738	1/29/2015	N	US BANCORP CARD SERVICES INC	P-CARD CHARGES	39,104.03
517739	1/29/2015	N	US BANK	UAD DEBT SERVICE	194,391.89
517740	1/29/2015	N	UST OPERATORS OF SO CALIF INC	INSPECTION SERVICE	2,208.00
517741	1/29/2015	N	VAN LINGEN BODY SHOP INC	TOWING AND VEHICLE STORAGE	79.50
517742	1/29/2015	N	VANTAGEPOINT TRANSFER AGENTS	RETMT HLTH SAVINGS CONTRIB: PAYME	1,465.86
517743	1/29/2015	N	ROBIN L VARGAS	EARNINGS WITHHOLDING	553.85
517744	1/29/2015	N	VECTOR RESOURCES INC	MIRA COSTA SWIM OFFICE DATA/VOICE IN	17,771.04
517745	1/29/2015	N	VERIZON CALIFORNIA INC	CABLE SERVICE	1,251.17
517746	1/29/2015	N	VISION INTERNET PROVIDERS INC	SUBSCRIPTION SERVICES	17,640.00
517747	1/29/2015	N	VISION SERVICE PLAN	VISION PREMIUMS	3,702.66
517748	1/29/2015	N	VORTEX INDUSTRIES	INDUSTRIAL DOOR & ELECTRONIC GATE I	16,354.66

**CITY OF MANHATTAN BEACH
WARRANT REGISTER**

WARRANT BATCH NUMBER: **WR 16b**

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
517749	1/29/2015	N	WALTERS WHOLESALE ELECTRIC CO	ELECTRICAL SUPPLIES	9,996.19
517750	1/29/2015	N	WEST BASIN MUNICIPAL WATER DIS	MONTHLY WATER PURCHASE	272,181.20
517751	1/29/2015	N	WEST COAST ARBORISTS INC	TREE MAINTENANCE	9,905.00
517752	1/29/2015	N	WEST PAYMENT CENTER	CONTRACT SERVICES	157.41
517753	1/29/2015	N	WESTWOOD BUILDING MATERIALS	BLDG MATERIALS/CEMENT	19.63
517754	1/29/2015	N	XEROX CORPORATION	MULTI MACHINES LEASE & BASE BUSINES	6,990.29
517755	1/29/2015	N	DON/CHRISTINA YEE	STREET SWEEPING REIMBURSEMENT	59.41
SUBTOTAL					1,823,064.84
COMBINED TOTAL					2,234,341.70

PAYMENT LEGEND:
T = Wire Transfers
N = System Printed Checks
H = Hand Written Checks

CITY OF MANHATTAN BEACH
WARRANT REGISTER
CHECKS EQUAL TO OR ABOVE
\$2,500.00

WARRANT BATCH NUMBER: **wr 16b**

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
12815	1/28/2015	T	CMB RISK MGMT LIABILITY	MONTHLY DISBURSAL - LIABILITY DEC	49,408.34
20215	2/2/2015	T	UNION BANK	F.I.T./MEDICARE/S.I.T.	224,566.48
1282015	1/28/2015	T	CMB RISK MGMT WORKERS COMP	MONTHLY DISBURSAL - WORKERS COMP I	137,302.04
SUBTOTAL					411,276.86
517599	1/29/2015	N	ADAMSON POLICE PRODUCTS	POLICE EQUIPMENT	3,479.84
517602	1/29/2015	N	ADMINSURE INC	CLAIMS ADMINISTRATION	10,273.15
517603	1/29/2015	N	ADPI WEST INC	AMBULANCE BILLING-DEC 2014	3,223.67
517608	1/29/2015	N	ANTHONY'S READY MIX	CONCRETE	2,639.42
517616	1/29/2015	N	CA NEWSPAPER PARTNERSHIP	ADVERTISING	2,752.00
517619	1/29/2015	N	CAROLYNA MESSINA & ASSOC INC	PROFESSIONAL SERVICES	3,893.75
517623	1/29/2015	N	CLE ELECTRIC INC	ON-CALL ELECTRICIAN	26,910.75
517625	1/29/2015	N	CLEANSSTREET	LANDSCAPE SERVICES EXTRAS	31,666.08
517626	1/29/2015	N	CLINICAL LAB OF SAN BERNARDINO	WATER QUALITY TESTING SERVICES CON'	3,232.37
517632	1/29/2015	N	CROWN BLDG MAINTENANCE CO INC	JANITORIAL SERVICES EXTRAS	22,013.50
517634	1/29/2015	N	DELTA DENTAL OF CALIFORNIA	DENTAL PREMIUMS	28,427.40
517636	1/29/2015	N	DEPARTMENT OF TRANSPORTATION	TRAFFIC SIGNAL MAINTENANCE	6,098.56
517639	1/29/2015	N	DUTHIE ELECTRIC SERVICES	GENERATOR RENTAL & REPAIRS	11,696.37
517641	1/29/2015	N	EQUARIUS WATERWORKS	MAINTENANCE SUPPORT	3,598.00
517643	1/29/2015	N	FIRE INFO SUPPORT SERVICES INC	FIRERMS SUPPORT & MAINTENANCE CON	3,930.00
517647	1/29/2015	N	HAZEN AND SAWYER PC	CONSULTING SERVICES	4,999.00
517651	1/29/2015	N	HONEYWELL INTERNATIONAL INC	HVAC MAINTENANCE & REPAIR	3,263.42
517653	1/29/2015	N	ICMA RETIREMENT TRUST - 401	DEFERRED COMP 109365: PAYMENT	3,019.88
517654	1/29/2015	N	ICMA RETIREMENT TRUST - 457	DEFERRED COMP AND LOAN REPAY 457	65,881.53

CITY OF MANHATTAN BEACH
WARRANT REGISTER
CHECKS EQUAL TO OR ABOVE
\$2,500.00

WARRANT BATCH NUMBER: **wr 16b**

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
517655	1/29/2015	N	ICMA RETIREMENT TRUST 401	DEFERRED COMP 109766: PAYMENT	5,351.98
517656	1/29/2015	N	INFOSEND INC	UB BILL/WEB PORTAL	5,524.17
517657	1/29/2015	N	IPS GROUP INC	PARKING METER CC FEES	15,926.12
517658	1/29/2015	N	JOAN STEIN JENKINS	PROSECUTION SERVICES	6,116.20
517669	1/29/2015	N	KEVIN H KUROMI	RFP# 755-09 GRAPHIC DESIGN SERVICES	3,525.00
517670	1/29/2015	N	L A COUNTY	PARKING CONCESSION FEE-2ND QTR	32,500.00
517671	1/29/2015	N	L A COUNTY DEPT OF P W	TRAFFIC SIGNAL MAINTENANCE	9,502.46
517676	1/29/2015	N	LANCE SOLL & LUNGHARD LLP	AUDIT SERVICES	4,462.00
517677	1/29/2015	N	LATITUDE GEOGRAPHICS GROUP LTI	INTRANET GIS MAPPING APPLICATION EN	17,800.00
517678	1/29/2015	N	LIEBERT CASSIDY WHITMORE	LEGAL SERVICES	3,803.00
517682	1/29/2015	N	LYNN KLEINERS MUSIC RHAP INC	MUSIC INSTRUCTOR	3,024.00
517684	1/29/2015	N	M B POLICE OFFICERS ASSOCIA	DUES \$ (POLICE FIXED): PAYMENT	5,948.92
517685	1/29/2015	N	MARINE RESOURCES INC	TEMPORARY EMPLOYEE SERVICES	12,163.49
517687	1/29/2015	N	MBPOA RETIREE	MD TRUST (MED TRUST): PAYMENT	2,550.00
517689	1/29/2015	N	MERCHANTS LANDSCAPE SVCS INC	LANDSCAPE SERVICES EXTRAS	43,663.07
517695	1/29/2015	N	POSTMASTER	POSTAGE PERMIT	12,130.81
517697	1/29/2015	N	PUBLIC EMPLOYEES'	PENSION CONTRIBUTION SAFETY: PAYME	278,763.08
517698	1/29/2015	N	PUBLIC EMPLOYEES'	MEDICAL PREMIUMS	284,403.39
517703	1/29/2015	N	SBRPCA	COMMUNICATIONS EQUIPMENT	19,079.68
517707	1/29/2015	N	SMART SOURCE OF CALIFORNIA LLC	PRINTING AND DIRECT MAILING SERVICE	18,287.09
517710	1/29/2015	N	SOUTHERN CALIFORNIA EDISON	STREET LIGHTING CHARGES	25,687.61
517714	1/29/2015	N	STANDARD INSURANCE COMPANY	LIFE AD&D LTD PREMIUMS	11,991.55

**CITY OF MANHATTAN BEACH
WARRANT REGISTER
CHECKS EQUAL TO OR ABOVE
\$2,500.00**

WARRANT BATCH NUMBER: **WR 16b**

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
517715	1/29/2015	N	STATE BOARD OF EQUALIZATION	USE TAX-2ND QTR FYE 2015	4,638.00
517722	1/29/2015	N	SUPERIOR COURT OF CA-CO OF LA	CITATION SURCHARGE-DEC 2014	58,434.20
517726	1/29/2015	N	THE PITNEY BOWES BANK INC	POSTAGE FUND RESERVE ACCOUNT	8,000.00
517729	1/29/2015	N	TOTAL ADMINISTRATIVE SVCS CORP	CHILD125 (CHILD 125 PLAN): PAYMENT	7,869.92
517733	1/29/2015	N	TURBO DATA SYSTEMS INC	CITATION PROCESSING-DEC 2014	10,857.03
517734	1/29/2015	N	U.S. BANK	P/T EMP RETIREMENT CONTRIB: PAYMEN	3,512.77
517736	1/29/2015	N	UNION BANK NA	MARINE LOC FEE 10/1/14-12/31/14	17,437.01
517738	1/29/2015	N	US BANCORP CARD SERVICES INC	P-CARD CHARGES	39,104.03
517739	1/29/2015	N	US BANK	UAD DEBT SERVICE	194,391.89
517744	1/29/2015	N	VECTOR RESOURCES INC	MIRA COSTA SWIM OFFICE DATA/VOICE IN	17,771.04
517746	1/29/2015	N	VISION INTERNET PROVIDERS INC	SUBSCRIPTION SERVICES	17,640.00
517747	1/29/2015	N	VISION SERVICE PLAN	VISION PREMIUMS	3,702.66
517748	1/29/2015	N	VORTEX INDUSTRIES	INDUSTRIAL DOOR & ELECTRONIC GATE M	16,354.66
517749	1/29/2015	N	WALTERS WHOLESALE ELECTRIC CO	ELECTRICAL SUPPLIES	9,996.19
517750	1/29/2015	N	WEST BASIN MUNICIPAL WATER DIS	MONTHLY WATER PURCHASE	272,181.20
517751	1/29/2015	N	WEST COAST ARBORISTS INC	TREE MAINTENANCE	9,905.00
517754	1/29/2015	N	XEROX CORPORATION	MULTI MACHINES LEASE & BASE BUSINES	6,990.29
SUBTOTAL					1,761,988.20

9:27:18AM
1/29/2015

WARRANT BATCH NUMBER: **wr 16b**

CITY OF MANHATTAN BEACH
WARRANT REGISTER
CHECKS EQUAL TO OR ABOVE
\$2,500.00

CHECK NO.	DATE	TYPE	PAYEE NAME	PAYMENT DESCRIPTION	CHECK AMOUNT
COMBINED TOTAL					2,173,265.06

PAYMENT LEGEND:
T = Wire Transfers
N = System Printed Checks
H = Hand Written Checks

Report of Warrant Disbursements
wr 16b

Fund	Description	Amount
100	General	1,291,595.31
201	Street Light	37,538.05
205	Streets & Highways	2,200.00
211	Police Grant	18,948.00
230	Prop A	2,208.26
401	Capital Improvements	28,443.78
501	Water	301,496.57
502	Storm	1,313.92
503	Waste Water	1,278.49
510	Refuse	1,612.41
520	Parking	39,024.33
521	County Parking Lot	33,639.25
522	State Pier Lots	14,035.72
601	Insurance	198,846.53
605	Information Services	17,640.00
610	Vehicle Fleet	12,308.11
615	Building Maintenance	37,821.08
710	UAD Debt Service	194,391.89
wr 16b		<u>2,234,341.70</u>
		<u><u>2,234,341.70</u></u>

**CITY OF MANHATTAN BEACH PAYROLL
PAY PERIOD: 01/10/15 TO 01/23/15
PAY DATE: 01/30/15**

NET PAY 768,734.73

1/10/2015

1/23/2015

CITY OF MANHATTAN BEACH PAYROLL REPORT

PAYROLL PERIOD ENDING DATE 1/23/2015

February 17, 2015
City Council Meeting

FUND	DESCRIPTION	AMOUNT
100	General Fund	1,048,225.29
230	Prop. A Fund	15,874.99
501	Water Fund	28,802.19
502	Stormwater Fund	2,705.40
503	Wastewater Fund	9,793.67
510	Refuse Fund	3,994.29
520	Parking Fund	2,021.17
521	County Parking Lots Fund	481.30
522	State Pier and Parking Lot Fund	481.28
601	Insurance Reserve Fund	7,775.51
605	Information Systems Fund	27,702.54
610	Fleet Management Fund	9,265.86
615	Building Maintenance & Operations Fund	12,738.85
801	Pension Trust Fund	8,270.95
	Gross Pay	1,178,133.29
	Deductions	409,398.56
	Net Pay	768,734.73

Check History Listing
CITY OF MANHATTAN BEACH

apCkHist
01/29/2015 9:31AM

Bank code: union	Check #	Date	Vendor	Status	Clear/Void Date	Invoice	Inv. Date	Amount Paid	Check Total
	517075	12/18/2014	33778 SHIRLEY BAKER	V	01/29/2015	FALL 2014	12/18/2014	66.00	66.00
								union Total:	66.00
								Total Checks:	66.00

1 checks in this report

Report of D-Card Transactions

Account Date	Department Management Services	Amount
100-11-021-5217	Departmental Supplies	
01/12/2015	ANNAS LINENS 115	261.43
100-11-021-5217	Departmental Supplies	<u>261.43</u>
11	Management Services	<u>261.43</u>

To enable prompt payment, these DCard expenditures were paid to US Bancorp on Warrant Register wr 16b, dated 01/29/2015; Check number 517738.

Report of D-Card Transactions

Account Date	Department Recreation	Amount
100-14-011-5201	Office Supplies	
01/12/2015	MANHATTAN STITCHING CO	336.10
100-14-011-5201	Office Supplies	336.10
100-14-011-5217	Departmental Supplies	
01/12/2015	CONTAINERSTOREELSEGUND	147.10
01/12/2015	ETSY.COM	31.99
01/12/2015	TARGET 00001990	70.78
100-14-011-5217	Departmental Supplies	249.87
100-14-021-5101	Contract Services	
01/12/2015	TIFFANY CLEANERS	217.20
100-14-021-5101	Contract Services	217.20
100-14-021-5217	Departmental Supplies	
01/12/2015	BIG LOTS STORES - #4111	139.52
01/12/2015	BIG LOTS STORES - #4111	218.55
01/12/2015	GCI*GUITAR CENTER SPO	209.24
01/12/2015	PARTY CITY #164	45.32
01/12/2015	REI 14 MANHATTAN BEACH	50.14
01/12/2015	TARGET 00001990	32.37
01/12/2015	TARGET 00001990	92.74
01/12/2015	THE HOME DEPOT 620	13.93
01/12/2015	THE HOME DEPOT 620	144.31
01/12/2015	THE HOME DEPOT 620	40.30
01/12/2015	THE HOME DEPOT 620	405.36
100-14-021-5217	Departmental Supplies	1,391.78
100-14-024-5217	Departmental Supplies	
01/12/2015	SMARTNFINAL52910305290	3.47
01/12/2015	TARGET 00001990	20.23
01/12/2015	TARGET 00001990	40.89
01/12/2015	TARGET 00001990	84.87
01/12/2015	TRADER JOE'S #034 QPS	8.96
01/12/2015	TRADER JOE'S #106 QPS	42.76
100-14-024-5217	Departmental Supplies	201.18
100-14-025-5217	Departmental Supplies	
01/12/2015	DOMINO'S 7842	52.24
01/12/2015	DOMINO'S 7842	65.19
01/12/2015	MANHATTAN BREAD & BAGEL	34.23

To enable prompt payment, these DCard expenditures were paid to US Bancorp on Warrant Register wr 16b, dated 01/29/2015; Check number 517738.

Report of D-Card Transactions

Account Date	Department Recreation	Amount
01/12/2015	MICHAELS STORES 3048	94.83
01/12/2015	SCOOTERS JUNGLE - SOUT	150.00
01/12/2015	SCOOTERS JUNGLE - SOUT	150.00
01/12/2015	TARGET 00001990	331.33
01/12/2015	TARGET 00001990	60.91
01/12/2015	TARGET 00001990	78.42
100-14-025-5217	Departmental Supplies	1,017.15
100-14-026-5101	Contract Services	
01/12/2015	BEAR MOUNTAIN TICKETS	182.00
01/12/2015	BEAR MOUNTAIN TICKETS	932.00
01/12/2015	BEAR MOUNTAIN TICKETS	-95.00
100-14-026-5101	Contract Services	1,019.00
100-14-026-5217	Departmental Supplies	
01/12/2015	LA LIVE	195.00
01/12/2015	OPERATION GRATITUDE	90.00
01/12/2015	PANERA BREAD #601524	476.09
01/12/2015	SQ *PIZZA NEXT DOOR	82.62
01/12/2015	TARGET 00001990	39.75
01/12/2015	VONS STORE00022756	51.94
100-14-026-5217	Departmental Supplies	935.40
100-14-028-5101	Contract Services	
01/12/2015	HOOPS, INC.	189.00
01/12/2015	IN *GLOBAL SPORTS SURFACI	150.00
01/12/2015	IN *GLOBAL SPORTS SURFACI	500.00
100-14-028-5101	Contract Services	839.00
100-14-028-5205	Training	
01/12/2015	EB ART OF MARKETING C	126.65
100-14-028-5205	Training	126.65
100-14-028-5217	Departmental Supplies	
01/12/2015	HOOPS, INC.	896.00
01/12/2015	AAA SPEEDY BOARD UPAN	320.00
01/12/2015	AMAZON MKTPLACE PMTS	1,391.90
01/12/2015	AMAZON MKTPLACE PMTS	371.15
01/12/2015	S & R SPORT	920.69
01/12/2015	YA YA E FAVORMART	137.14

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Report of D-Card Transactions

Account Date	Department Recreation	Amount
100-14-028-5217	Departmental Supplies	<u>4,036.88</u>
100-14-031-5217	Departmental Supplies	
01/12/2015	CORNER BAKERY	16.00
01/12/2015	RALPHS #0166	14.78
01/12/2015	RALPHS #0166	141.87
01/12/2015	SIGN SPECIALISTS CORP	348.08
100-14-031-5217	Departmental Supplies	<u>520.73</u>
100-14-034-5217	Departmental Supplies	
01/12/2015	ROCKLER WOOD*	58.83
100-14-034-5217	Departmental Supplies	<u>58.83</u>
100-14-036-5217	Departmental Supplies	
01/12/2015	99 CENTS ONLY STORES #310	9.81
100-14-036-5217	Departmental Supplies	<u>9.81</u>
100-14-041-5217	Departmental Supplies	
01/12/2015	MANHATTAN STITCHING CO	311.46
01/12/2015	PARADISE AWARDS	59.95
01/12/2015	USPS 05471802231805609	12.65
100-14-041-5217	Departmental Supplies	<u>384.06</u>
100-14-042-5217	Departmental Supplies	
01/12/2015	THE FLAME BROILER	249.56
01/12/2015	VONS STORE00022756	24.99
01/12/2015	VONS STORE00022756	8.00
100-14-042-5217	Departmental Supplies	<u>282.55</u>
100-14-043-5101	Contract Services	
01/12/2015	KNORR SYSTEMS, INC	1,244.52
01/12/2015	PATTERSON CLEANERS PHOTO	60.50
100-14-043-5101	Contract Services	<u>1,305.02</u>
100-14-043-5206	Uniforms/Safety Equipment	
01/12/2015	MANHATTAN STITCHING CO	1,035.50
100-14-043-5206	Uniforms/Safety Equipment	<u>1,035.50</u>
100-14-043-5217	Departmental Supplies	
01/12/2015	PANDA EXPRESS #356	1,008.25

To enable prompt payment, these DCard expenditures were paid to US Bancorp on Warrant Register wr 16b, dated 01/29/2015; Check number 517738.

Report of D-Card Transactions

Account Date	Department Recreation	Amount
01/12/2015	PARTY CITY #164	44.66
01/12/2015	THE HOME DEPOT 620	188.01
01/12/2015	THE LIFEGUARD STORE IN	134.50
01/12/2015	THE LIFEGUARD STORE IN	1,535.10
100-14-043-5217	Departmental Supplies	<u>2,910.52</u>
100-14-043-5501	Telephone	
01/12/2015	VERIZON*RECURRING PAY	79.95
100-14-043-5501	Telephone	<u>79.95</u>
100-14-051-5217	Departmental Supplies	
01/12/2015	CORNER BAKERY	135.00
100-14-051-5217	Departmental Supplies	<u>135.00</u>
100-14-061-5217	Departmental Supplies	
01/12/2015	ART*PACIFIC RESIDENT THR	250.00
100-14-061-5217	Departmental Supplies	<u>250.00</u>
100-14-062-5101	Contract Services	
01/12/2015	TWC*TIME WARNER CABLE	69.95
01/12/2015	TWC*TIME WARNER CABLE	69.95
100-14-062-5101	Contract Services	<u>139.90</u>
100-14-062-5217	Departmental Supplies	
01/12/2015	99 CENTS ONLY STORES #310	33.79
01/12/2015	AMAZON MKTPLACE PMTS	49.17
01/12/2015	SMARTNFINAL45810304582	48.98
01/12/2015	SMARTNFINAL52910305290	100.80
01/12/2015	SMARTNFINAL52910305290	191.85
01/12/2015	SMARTNFINAL52910305290	35.93
01/12/2015	SMARTNFINAL52910305290	42.71
01/12/2015	SMARTNFINAL52910305290	69.24
100-14-062-5217	Departmental Supplies	<u>572.47</u>
14	Recreation	<u><u>18,054.55</u></u>

To enable prompt payment, these DCard expenditures were paid to US Bancorp on Warrant Register wr 16b, dated 01/29/2015; Check number 517738.

Report of D-Card Transactions

Account Date	Department Police	Amount
100-15-011-5206	Uniforms/Safety Equipment	
01/12/2015	ADAMSON POLICE PRODUCTS	260.12
100-15-011-5206	Uniforms/Safety Equipment	260.12
100-15-011-5217	Departmental Supplies	
01/12/2015	DOOLEY ENTERPRISES,INC	2,281.08
01/12/2015	AT&T S849 5708	16.35
01/12/2015	AT&T S849 5708	83.49
01/12/2015	HK PARTS	42.84
01/12/2015	QUALIFICATION TARGETS	345.46
100-15-011-5217	Departmental Supplies	2,769.22
100-15-011-5220	POST Training	
01/12/2015	EB EMOTIONAL SURVIVAL	7.00
01/12/2015	EB EMOTIONAL SURVIVAL	7.00
01/12/2015	EB EMOTIONAL SURVIVAL	7.00
01/12/2015	EB EMOTIONAL SURVIVAL	7.00
01/12/2015	EB EMOTIONAL SURVIVAL	7.00
01/12/2015	EB EMOTIONAL SURVIVAL	7.00
01/12/2015	EB EMOTIONAL SURVIVAL	7.00
01/12/2015	EB EMOTIONAL SURVIVAL	7.00
01/12/2015	RESIDENCE INNS SAN BERNRD	495.65
01/12/2015	SOUTHWESTAIR5262469189711	122.20
01/12/2015	SOUTHWESTAIR5262469192312	122.20
01/12/2015	TEMECULA CREEK INN	1,500.00
01/12/2015	TEMECULA CREEK INN	194.43
01/12/2015	TEMECULA CREEK INN	2,500.00
100-15-011-5220	POST Training	4,997.48
100-15-021-5101	Contract Services	
01/12/2015	HELENS CYCLES 3 - MB	42.70
100-15-021-5101	Contract Services	42.70
100-15-021-5204	Conferences & Meetings	
01/12/2015	MARRIOTT 337U0 BROOKLYN	254.80
100-15-021-5204	Conferences & Meetings	254.80
100-15-021-5205	Training	
01/12/2015	NATIONAL TACTICAL OFFICE	233.00
01/12/2015	SQ *DEVALLIS.COM	99.00

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Report of D-Card Transactions

Account Date	Department Police	Amount
100-15-021-5205	Training	332.00
100-15-031-5204	Conferences & Meetings	
01/12/2015	AMPCO PARKING FIGUEROA PL	8.25
100-15-031-5204	Conferences & Meetings	8.25
100-15-031-5217	Departmental Supplies	
01/12/2015	B&H PHOTO, 800-606-6969	1,896.95
100-15-031-5217	Departmental Supplies	1,896.95
100-15-041-5204	Conferences & Meetings	
01/12/2015	ALASKA AIR 0272161070724	469.20
01/12/2015	ALASKA AIR 0272161070986	469.20
01/12/2015	PAYPAL *CAPE	200.00
01/12/2015	PAYPAL *CAPE	200.00
100-15-041-5204	Conferences & Meetings	1,338.40
100-15-041-5217	Departmental Supplies	
01/12/2015	PARTY CITY #164	31.33
01/12/2015	PARTY CITY #164	37.04
01/12/2015	SMARTNFINAL52910305290	28.32
01/12/2015	SMARTNFINAL52910305290	98.88
01/12/2015	TARGET 00001990	4.68
100-15-041-5217	Departmental Supplies	200.25
100-15-051-5217	Departmental Supplies	
01/12/2015	SMARTNFINAL32210303220	114.57
01/12/2015	VONS STORE00022756	7.38
100-15-051-5217	Departmental Supplies	121.95
100-15-061-5206	Uniforms/Safety Equipment	
01/12/2015	IN *PVP COMMUNICATIONS, I	65.00
100-15-061-5206	Uniforms/Safety Equipment	65.00
100-15-071-5217	Departmental Supplies	
01/12/2015	RALPHS #0166	6.00
01/12/2015	SMARTNFINAL52910305290	62.13
01/12/2015	VONS STORE00022756	10.00
100-15-071-5217	Departmental Supplies	78.13

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Report of D-Card Transactions

Account Date	Department Police	Amount
100-15-081-5217	Departmental Supplies	
01/12/2015	AMAZON MKTPLACE PMTS	19.95
01/12/2015	AMAZON MKTPLACE PMTS	196.00
01/12/2015	AMAZON.COM	40.00
100-15-081-5217	Departmental Supplies	<u>255.95</u>
100-15-091-5217	Departmental Supplies	
01/12/2015	AMAZON MKTPLACE PMTS	20.76
01/12/2015	AMAZON MKTPLACE PMTS	30.50
01/12/2015	AMAZON.COM	45.66
01/12/2015	AMAZON.COM	82.83
01/12/2015	AMAZON.COM	82.83
100-15-091-5217	Departmental Supplies	<u>262.58</u>
15	Police	<u><u>12,883.78</u></u>

To enable prompt payment, these DCard expenditures were paid to US Bancorp on Warrant Register wr 16b, dated 01/29/2015; Check number 517738.

Report of D-Card Transactions

Account Date	Department Fire	Amount
100-16-011-5101	Contract Services	
01/12/2015	IN *THE DUMBELL MAN FITNE	70.68
100-16-011-5101	Contract Services	<u>70.68</u>
100-16-031-5205	Training	
01/12/2015	SAFE KIDS WORLDWIDE	85.00
100-16-031-5205	Training	<u>85.00</u>
100-16-031-5217	Departmental Supplies	
01/12/2015	OVR*O.CO/OVERSTOCK.COM	1,439.85
01/12/2015	WW GRAINGER	208.37
100-16-031-5217	Departmental Supplies	<u>1,648.22</u>
100-16-031-5221	Automotive Repair Services	
01/12/2015	VALLEY POWER SYSTEMS	270.36
01/12/2015	VALLEY POWER SYSTEMS	932.26
100-16-031-5221	Automotive Repair Services	<u>1,202.62</u>
100-16-053-5206	Uniforms/Safety Equipment	
01/12/2015	CAL UNIFORMS INC	199.47
01/12/2015	CAL UNIFORMS INC	199.47
100-16-053-5206	Uniforms/Safety Equipment	<u>398.94</u>
16	Fire	<u><u>3,405.46</u></u>

To enable prompt payment, these DCard expenditures were paid to US Bancorp on Warrant Register wr 16b, dated 01/29/2015; Check number 517738.

Report of D-Card Transactions

Account Date	Department Public Works	Amount
501-18-221-5101	Contract Services	
01/12/2015	SMARTSOURCE OF CALIF	3,396.13
501-18-221-5101	Contract Services	<u>3,396.13</u>
18	Public Works	<u>3,396.13</u>

To enable prompt payment, these DCard expenditures were paid to US Bancorp on Warrant Register wr 16b, dated 01/29/2015; Check number 517738.

Report of D-Card Transactions

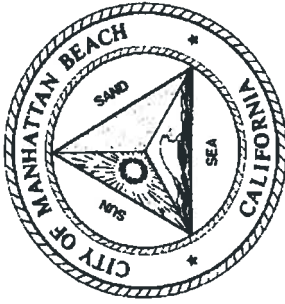
Account Date	Department	Amount
100-21727	Pumpkin Race	
01/12/2015	MANHATTAN STITCHING CO	784.80
100-21727	Pumpkin Race	<u>784.80</u>
21727		<u>784.80</u>

To enable prompt payment, these DCard expenditures were paid to US Bancorp on Warrant Register wr 16b, dated 01/29/2015; Check number 517738.

Report of D-Card Transactions

Account Date	Department	Amount
100-21728	Mayor's Youth Council Trust	
01/12/2015	PIZZA HUT 026181	280.32
01/12/2015	TARGET 00001990	37.56
100-21728	Mayor's Youth Council Trust	<u>317.88</u>
21728		<u>317.88</u>
	Report Totals	<u><u>39,104.03</u></u>

To enable prompt payment, these DCard expenditures were paid to US Bancorp on Warrant Register wr 16b, dated 01/29/2015; Check number 517738.



City of Manhattan Beach

Investment Portfolio December 2014

As Finance Director for the City of Manhattan Beach, I hereby certify that these investments are in compliance with the City's investment policy (unless otherwise noted). Sufficient liquidity has been maintained to meet budget expenditure requirements for the current six month period.



Bruce Moe, Director of Finance

**CITY OF MANHATTAN BEACH
Portfolio Management
Portfolio Summary**

December 1, 2014 through December 31, 2014

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
LAIIF	27,850,000.00	27,850,000.00	27,850,000.00	34.34	1	1	0.263	0.267
Certificates of Deposit - Bank	8,051,000.00	8,056,292.53	8,051,000.00	9.93	1,337	676	0.995	1.009
Medium Term Notes	12,000,000.00	12,125,085.00	12,130,786.00	14.96	1,276	592	1.195	1.212
Federal Agency Issues - Coupon	33,000,000.00	33,067,650.00	33,071,198.87	40.78	1,430	1,045	1.283	1.301
Investments	80,901,000.00	81,099,027.53	81,102,984.87	100.00%	907	582	0.891	0.904
Cash and Accrued Interest								
Passbook/Checking (not included in yield calculations)	11,788.64	11,788.64	11,788.64		1	1	0.000	0.000
Accrued Interest at Purchase		11,612.22	11,612.22					
Subtotal		23,400.86	23,400.86					
Total Cash and Investments	80,912,788.64	81,122,428.39	81,126,385.73		907	582	0.891	0.904

Total Earnings	December 31	Month Ending	Fiscal Year To Date
Current Year		70,301.44	427,448.30

BRUCE A. MOE, FINANCE DIRECTOR

Reporting period 12/01/2014-12/31/2014

Run Date: 01/30/2015 - 15:14

Portfolio CITY
CP
PM (PRE_PM1) 7.3.0
Report Ver. 7.3.5

**CITY OF MANHATTAN BEACH
Portfolio Management
Portfolio Details - Investments
December 31, 2014**

CUSIP	Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	S&P	YTM 365	Days to Maturity	Maturity Date
LAIF											
SYSS000	3000	Local Agency Invest. Fund	07/01/2000	27,850,000.00	27,850,000.00	27,850,000.00	0.267		0.267	1	
		Subtotal and Average		27,850,000.00	27,850,000.00	27,850,000.00			0.267	1	
Certificates of Deposit - Bank											
20033ADU7	CD0033	Comenity Capital Bank	12/02/2013	245,000.00	245,514.50	245,000.00	0.750		0.750	518	06/02/2016
02005QZW6	CD0007	Ally Bank	03/21/2012	245,000.00	247,200.10	245,000.00	1.150		1.150	445	03/21/2016
068513BC3	CD0027	Barrington Bank (WFTC)	09/27/2013	245,000.00	245,482.65	245,000.00	0.650		0.650	270	09/28/2015
20451PEM4	CD0025	Compass Bank	09/25/2013	245,000.00	245,411.60	245,000.00	0.750		0.750	267	09/25/2015
062649YAO	CD0014	Bank of Holland	08/29/2012	245,000.00	242,263.35	245,000.00	1.050		1.050	971	08/29/2017
06414QSU4	CD0034	Bank of North Carolina	02/14/2014	245,000.00	244,590.85	245,000.00	0.800		0.800	775	02/14/2017
SYSCD0003	CD0003	Bank of Manhattan	10/28/2011	245,000.00	245,000.00	245,000.00	1.730		1.730	300	10/28/2015
101120CZ4	CD0024	Boston Private Bank & Trust	04/04/2013	245,000.00	242,336.85	245,000.00	0.950		0.950	1,189	04/04/2018
17453FBG6	CD0036	CITIZENS DEPOSIT BANK	02/20/2014	211,000.00	209,856.38	211,000.00	1.300		1.300	1,146	02/20/2018
2546703V2	CD0006	Discover Bank Greenwood Intere	02/15/2012	245,000.00	249,086.60	245,000.00	1.600		1.600	776	02/15/2017
31931TDC6	CD0031	First Bank North Carolina	11/27/2013	245,000.00	245,338.10	245,000.00	0.800		0.800	697	11/28/2016
29976DNM8	CD0013	Everbank Jacksonville FL	08/29/2012	245,000.00	246,898.75	245,000.00	0.900		0.900	606	08/29/2016
3364ORBW6	CD0030	First Sentry Bank	11/22/2013	245,000.00	245,242.55	245,000.00	0.750		0.750	691	11/22/2016
344030EQ0	CD0011	Flushing SVGS Bk NY	07/27/2012	245,000.00	247,636.20	245,000.00	1.100		1.100	938	07/27/2017
320844NW9	CD0038	FIRST MERT BANK	02/24/2014	245,000.00	243,706.40	245,000.00	1.300		1.300	1,152	02/26/2018
35137QAR5	CD0029	Fox Chase Bank	09/30/2013	245,000.00	245,539.00	245,000.00	0.600		0.600	272	09/30/2015
3616OXC39	CD0004	GENERAL ELECTRIC CAPITAL	12/29/2011	245,000.00	249,307.10	245,000.00	2.100		2.100	728	12/29/2016
37312BEC7	CD0021	Georgia Bank & Trust	03/28/2013	245,000.00	242,067.35	245,000.00	0.750		0.750	817	03/28/2017
38143AFP5	CD0005	Goldman Sachs	01/05/2012	245,000.00	249,309.55	245,000.00	2.050		2.050	735	01/05/2017
06251AYD6	CD0010	BANK HAPOALIM NY	07/24/2012	245,000.00	245,953.05	245,000.00	1.000		1.000	204	07/24/2015
49306SSQ0	CD0026	Key Bank NA	09/25/2013	245,000.00	245,445.90	245,000.00	0.550		0.550	267	09/25/2015
59012YW29	CD0015	Merrick Bank	08/29/2012	245,000.00	244,911.80	245,000.00	0.700		0.700	424	02/29/2016
57116AHE1	CD0032	Marlin Business Bank	11/27/2013	245,000.00	245,151.90	245,000.00	0.850		0.850	697	11/28/2016
747133BP0	CD0022	Pyramax Bank	03/28/2013	245,000.00	243,189.45	245,000.00	0.750		0.750	817	03/28/2017
786580Q52	CD0009	Saifra National Bank	05/31/2012	245,000.00	245,725.20	245,000.00	0.800		0.800	151	06/01/2015
795450NT8	CD0012	SALLIE MAE BANK	08/08/2012	245,000.00	246,026.55	245,000.00	1.100		1.100	221	08/10/2015
856284J21	CD0018	State Bank of India	12/21/2012	245,000.00	245,093.10	245,000.00	1.200		1.200	1,085	12/21/2017
88413QAH11	CD0037	THIRD FEDERAL SAVINGS & LOAN	02/21/2014	245,000.00	244,064.10	245,000.00	1.150		1.150	1,055	11/21/2017
22766AAD7	CD0035	CROSSFIRST BANK	02/19/2014	245,000.00	244,240.50	245,000.00	0.750		0.750	782	02/21/2017
90344LBS7	CD0020	USNY Bank	03/28/2013	245,000.00	241,770.90	245,000.00	0.750		0.750	848	04/28/2017
938828AA8	CD0023	Washington Federal	03/28/2013	245,000.00	242,403.00	245,000.00	1.000		1.000	1,182	03/28/2018
94768NJE5	CD0019	Webster Bank	12/26/2012	245,000.00	245,046.55	245,000.00	1.000		1.000	1,090	12/26/2017

Portfolio CITY
CP
PM (PRF_PN2) 7.3.0

CITY OF MANHATTAN BEACH
Portfolio Management
Portfolio Details - Investments
December 31, 2014

CUSIP	Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	S&P	YTM 365	Days to Maturity	Maturity Date
Certificates of Deposit - Bank											
962721AM8	CD0028	Wheaton Bank & Trust (WFTC)	09/27/2013	245,000.00	245,482.65	245,000.00	0.650		0.650	270	09/28/2015
		Subtotal and Average		8,051,000.00	8,056,292.53	8,051,000.00			1.009	676	
Money Market Fund											
SYSGMRA39907	GIMRA39907	Union Bank of California	10/09/2008	0.00	0.00	0.00	0.350		0.350	1	
		Subtotal and Average		0.00	0.00	0.00			0.000	0	
Medium Term Notes											
084670BD9	MTN0065	BERKSHIRE HATHWAY	07/20/2012	1,000,000.00	1,014,430.00	1,017,648.68	1.900	AAA	1.112	761	01/31/2017
20271RAA8	MTN0063	Commonwealth Bank Australia	06/13/2012	1,000,000.00	1,003,040.00	1,006,690.00	1.950		1.750	74	03/16/2015
22160KAD7	MTN0071	COSTCO COMPANIES	08/20/2013	1,000,000.00	1,001,670.00	1,002,270.00	0.650		0.550	340	12/07/2015
36962G5C4	MTN0066	Gen elec Cap Corp	10/24/2012	2,000,000.00	2,058,360.00	2,047,780.10	2.950		1.350	494	05/09/2016
88579YAD3	MTN0072	3M	11/21/2013	1,000,000.00	1,011,190.00	1,014,280.99	1.375		0.783	637	09/29/2016
63254AAC2	MTN0067	NATL AUSTRALIA BANK	10/24/2012	500,000.00	502,895.00	509,880.00	1.600		0.880	218	08/07/2015
68389XAN5	MTN0074	ORACLE CORP	02/18/2014	1,000,000.00	996,440.00	994,650.00	1.200		1.350	1,018	10/15/2017
717081DG5	MTN0073	Pfizer Inc	12/27/2013	1,000,000.00	998,740.00	990,150.00	1.500	AA	1.730	1,261	06/15/2018
89233P6S0	MTN0069	Toyota Motor Corp	12/21/2012	1,000,000.00	997,020.00	1,005,100.00	1.250		1.140	1,008	10/05/2017
90520EAC5	MTN0070	Union Bank	12/21/2012	1,000,000.00	1,026,630.00	1,024,904.77	3.000		1.244	522	06/06/2016
94974BFA3	MTN0064	WELLS FARGO & CO SRNT	07/20/2012	1,000,000.00	1,000,960.00	1,003,270.00	1.250		1.120	43	02/13/2015
94974BEZ9	MTN0068	WELLS FARGO & CO	10/24/2012	500,000.00	513,710.00	514,161.46	2.625		1.256	714	12/15/2016
		Subtotal and Average		12,000,000.00	12,125,085.00	12,130,786.00			1.212	592	
Federal Agency Issues - Coupon											
31331SNP4	FAC0194	FED FARM CR BK	07/14/2010	2,000,000.00	2,014,980.00	2,008,615.86	4.550	AAA	2.177	62	03/04/2015
3133EDE99	FAC0219	FED FARM CR BK	02/13/2014	2,000,000.00	2,007,380.00	2,008,177.52	1.340	AA	1.208	1,093	12/29/2017
3133EDLR1	FAC0222	FED FARM CR BK	05/29/2014	2,000,000.00	2,002,800.00	2,009,647.54	1.650	AAA	1.542	1,595	05/15/2019
3133ED2D3	FAC0228	FED FARM CR BK	11/04/2014	2,000,000.00	2,022,180.00	2,026,672.73	1.550	AAA	1.050	991	09/18/2017
3133EEFA3	FAC0229	FED FARM CR BK	12/26/2014	2,000,000.00	1,999,800.00	1,998,820.00	0.720	AA	0.750	714	12/15/2016
313373SZ6	FAC0202	Federal Home Loan Bank	08/29/2011	1,000,000.00	1,022,400.00	1,013,086.11	2.125	AAA	1.233	526	06/10/2016
313383LA7	FAC0215	Federal Home Loan Bank	06/27/2013	2,000,000.00	1,993,820.00	2,000,000.00	1.450	AA	1.450	1,273	06/27/2018
3130A0CU2	FAC0217	Federal Home Loan Bank	11/21/2013	1,000,000.00	1,003,900.00	1,000,000.00	1.550	AA	1.550	1,420	11/21/2018
313376BR5	FAC0218	Federal Home Loan Bank	12/27/2013	1,000,000.00	1,009,620.00	998,570.00	1.750	AAA	1.780	1,443	12/14/2018
3130A33J1	FAC0226	Federal Home Loan Bank	09/22/2014	3,000,000.00	2,998,800.00	3,001,740.00	1.200	AAA	1.180	992	09/19/2017
3130A3CE2	FAC0227	Federal Home Loan Bank	11/04/2014	2,000,000.00	1,996,680.00	2,001,720.00	0.625	AAA	0.580	652	10/14/2016
3134G37A2	FAC0213	Federal Home Loan Mortgage	04/02/2013	2,000,000.00	1,980,680.00	2,000,000.00	1.125	AAA	1.125	1,187	04/02/2018
3137EADK2	FAC0224	Federal Home Loan Mortgage	08/01/2014	2,000,000.00	1,963,080.00	1,953,680.28	1.250	AAA	1.780	1,673	08/01/2019

CITY OF MANHATTAN BEACH
Portfolio Management
Portfolio Details - Investments
December 31, 2014

CUSIP	Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	S&P	YTM 365	Days to Maturity	Maturity Date	
Federal Agency Issues - Coupon												
3134G5EK7	FAC0225	Federal Home Loan Mortgage	08/21/2014	2,000,000.00	1,998,400.00	2,000,000.00	1.200	AAA	1.200	963	08/21/2017	
3134G5UA1	FAC0230	Freddie Mac	12/30/2014	2,000,000.00	1,998,840.00	2,000,000.00	1.250	AAA	1.250	1,090	12/26/2017	
3135GOCM3	FAC0206	Fannie Mae	12/28/2011	2,000,000.00	2,020,420.00	2,006,420.00	1.250	AAA	1.180	636	09/28/2016	
3135G0ZA4	FAC0221	Fannie Mae	05/29/2014	1,000,000.00	1,015,170.00	1,016,922.05	1.875	AAA	1.478	1,510	02/19/2019	
880591EQ1	FAC0220	Tennessee Valley Authority	05/29/2014	2,000,000.00	2,018,700.00	2,027,126.78	1.750	AAA	1.395	1,383	10/15/2018	
Subtotal and Average				33,000,000.00	33,067,650.00	33,071,198.87			1.301	1,045		
Total and Average				80,901,000.00	81,099,027.53	81,102,984.87			0.904	582		

**CITY OF MANHATTAN BEACH
 Portfolio Management
 Portfolio Details - Cash
 December 31, 2014**

CUSIP	Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	S&P	YTM 365	Days to Maturity
Money Market Fund										
SYS39903-39902	39901	UNION BANK	06/01/2003	11,788.64	11,788.64	11,788.64			0.000	1
			Accrued Interest at Purchase		11,612.22	11,612.22				1
			Subtotal		23,400.86	23,400.86				
		Total Cash and Investments		80,912,788.64	81,122,428.39	81,126,385.73			0.904	582

**City of Manhattan Beach
Investment Portfolio Summary
As of December 31, 2014**

PORTFOLIO PROFILE	Dec 31, 2014	Nov 30, 2014	Oct 31, 2014	Sep 30, 2014	Aug 31, 2014
Total Book Value (Excluding Trust Funds)	\$81,102,985	\$74,776,577	\$75,274,962	\$76,564,962	\$79,463,222
Increase/(Decrease) from Prior Period	6,326,408	(498,385)	(1,290,000)	(2,898,260)	(800,500)
Percentage Change	8.5%	(0.7%)	(1.7%)	(3.6%)	(1.0%)
Average Yield to Maturity (365 Days)	0.904%	0.918%	0.972%	0.974%	0.917%
Increase/(Decrease) from Prior Period	(0.014%)	(0.054%)	(0.002%)	0.056%	0.074%

PORTFOLIO ALLOCATIONS

By Security	Value (Par)	Percent	Par YTM	Time Horizon	Percent
LAIF*	\$27,850,000	34.42%	0.267%	Next 12 months	44%
Certificates of Deposit	8,051,000	10.0%	1.009%	Months 13-24	17%
Medium Term Notes	12,000,000	14.8%	1.212%	Months 25-36	21%
Federal Agencies	33,000,000	40.8%	1.301%	Months 37-48	12%
Total	\$80,901,000	100.0%	0.903%	Months 49-60	6%
				Total	100.0%

*LAIF YTM as of December 31, 2014

RECENT ACTIVITY

Security	Date of Activity	Maturity Date	Purchase (Par)	Maturing/Call	YTM
FHLMC - 1.25% Coupon	8/1/2014	8/1/2019	2,000,000		1.780%
FHLMC - 1.2% Coupon	8/21/2014	8/21/2017	2,000,000		1.200%
FHLB - 1.2% Coupon	9/22/2014	9/19/2017	3,000,000		1.180%
FHLB - 0.625% Coupon	11/4/2014	10/14/2016	2,000,000		0.580%
FFCB - 1.55% Coupon	11/4/2014	9/18/2017	2,000,000		1.050%
FFCB - 0.72% Coupon	12/26/2014	12/15/2016	2,000,000		0.750%
FHLMC - 1.25% Coupon	12/30/2014	12/26/2017	2,000,000		1.250%
Total Purchases			\$15,000,000		1.117%
Matured: FHLMC - 3% Coupon	7/28/2014	7/28/2014		2,000,000	1.576%
Matured: CD - 0.75% Coupon	10/24/2014	10/24/2014		245,000	0.750%
Matured: CD - 0.7% Coupon	10/27/2014	10/27/2014		245,000	0.700%
Called: FHLB - 0.875% Coupon	10/29/2014	1/17/2017		2,000,000	0.875%
Matured: FHLMC - 5% Coupon	11/13/2014	11/13/2014		2,000,000	2.325%
Matured: FNMA - 2.625% Coupon	11/20/2014	11/20/2014		2,000,000	1.482%
Total Maturing/Calls				\$8,490,000	1.516%

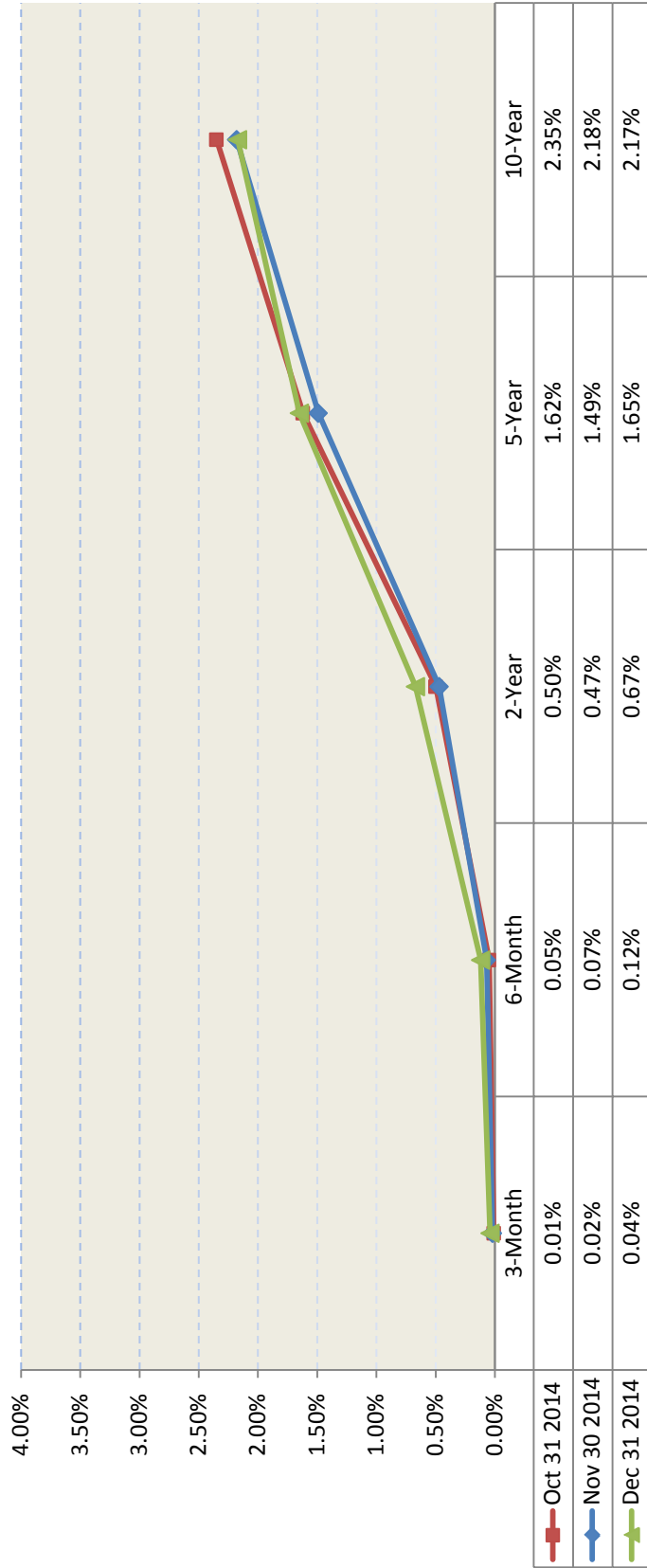
**City of Manhattan Beach
Investment Portfolio Summary
As of December 31, 2014**

PORTFOLIO FUNDS HELD IN TRUST	Value
Police/Fire Refund Delivery Cost	\$614,481
Marine Avenue	36,003
Metlox & Water/Wastewater Refunding	755,656
UUAD Assessment Funds	1,359,648
Total Funds Held in Trust	\$2,765,788

As of December 31, 2014

US Treasuries Yield Curve

www.treas.gov



**City of Manhattan Beach
Investment Policy Compliance Chart**

As of December 31, 2014

Instrument	% of Total	Dollar Compliance		Percentage Compliance	Term Compliance
		Limit	Compliant?		
Local Agency Investment Fund (LAIF)	34.4%	\$27,850,000	Yes	<i>Temporary Suspension</i>	
Certificates of Deposit					
Discover Bank (5649)	0.3%	\$245,000	Yes	5.0%	Yes
First Merit Bank (13675)	0.3%	245,000	Yes	5.0%	Yes
First Bank NC (15019)	0.3%	245,000	Yes	5.0%	Yes
Flushing SB NY (16049)	0.3%	245,000	Yes	5.0%	Yes
Citizens Deposit Bk (16852)	0.3%	211,000	Yes	5.0%	Yes
Key Bank NA (17534)	0.3%	245,000	Yes	5.0%	Yes
Webster Bank (18221)	0.3%	245,000	Yes	5.0%	Yes
Compass Bank (19048)	0.3%	245,000	Yes	5.0%	Yes
Bank of Manhattan (23191)	0.3%	245,000	Yes	5.0%	Yes
Boston Private Bank & Trust (24811)	0.3%	245,000	Yes	5.0%	Yes
Safra National Bank (26876)	0.3%	245,000	Yes	5.0%	Yes
Georgia Bank & Trust (27574)	0.3%	245,000	Yes	5.0%	Yes
Fox Chase Bank (28888)	0.3%	245,000	Yes	5.0%	Yes
Pyramid Bank (29120)	0.3%	245,000	Yes	5.0%	Yes
Third Fed Svgs Bk (30012)	0.3%	245,000	Yes	5.0%	Yes
Washington Federal (30570)	0.3%	245,000	Yes	5.0%	Yes
Goldman Sachs Bk (33124)	0.3%	245,000	Yes	5.0%	Yes
Bank of NC (33527)	0.3%	245,000	Yes	5.0%	Yes
State Bank of India NY (33682)	0.3%	245,000	Yes	5.0%	Yes
Bank Hapoalim NY (33686)	0.3%	245,000	Yes	5.0%	Yes
GE Cap Financial Inc (GE Capital Bank - 33778)	0.3%	245,000	Yes	5.0%	Yes
Wheaton Bk & Trust (33803)	0.3%	245,000	Yes	5.0%	Yes
First Sentry Bank (34241)	0.3%	245,000	Yes	5.0%	Yes
Barrington Bank & Trust (34395)	0.3%	245,000	Yes	5.0%	Yes
Merrick Bank (34519)	0.3%	245,000	Yes	5.0%	Yes
EverBank (34775)	0.3%	245,000	Yes	5.0%	Yes
Bank of Holland (34862)	0.3%	245,000	Yes	5.0%	Yes
Comenity Capital (57570)	0.3%	245,000	Yes	5.0%	Yes
Ally Bank (57803)	0.3%	245,000	Yes	5.0%	Yes
Sallie Mae Bank (58177)	0.3%	245,000	Yes	5.0%	Yes
Marlin Business Bank (58267)	0.3%	245,000	Yes	5.0%	Yes
USNY Bank (58541)	0.3%	245,000	Yes	5.0%	Yes
Crossfirst Bank (58648)	0.3%	245,000	Yes	5.0%	Yes
Total Certificates of Deposit (33)	10.0%	\$8,051,000		20.0%	Yes
Medium Term (Corporate) Notes					
Berkshire Hathaway	1.2%	\$1,000,000		5.0%	Yes
Commwealth Bank Australia	1.2%	1,000,000		5.0%	Yes
Costco Companies	1.2%	1,000,000		5.0%	Yes
GE Cap Corp	2.5%	2,000,000		5.0%	Yes
National Australia Bank	0.6%	500,000		5.0%	Yes
Oracle	1.2%	1,000,000		5.0%	Yes
Pfizer Inc	1.2%	1,000,000		5.0%	Yes
Toyota Motor Credit	1.2%	1,000,000		5.0%	Yes
Union Bank	1.2%	1,000,000		5.0%	Yes
Wells Fargo & Co	1.9%	1,500,000		5.0%	Yes
3M	1.2%	1,000,000		5.0%	Yes
Total Medium Term Notes (11)	14.8%	\$12,000,000		20.0%	Yes
Federal Agencies					
Federal Home Loan Bank (FHLB)	12.4%	\$10,000,000		33.3%	Yes
Federal Farm Credit (FFCB)	12.4%	10,000,000		33.3%	Yes
Fannie Mae (FNMA)	3.7%	3,000,000		33.3%	Yes
Freddie Mac (FHLMC)	9.9%	8,000,000		33.3%	Yes
Tenn Valley Authority (TVA)	2.5%	2,000,000		33.3%	Yes
Total Federal Agencies (5)	40.8%	\$33,000,000		60.0%	Yes
Total Portfolio	100.0%	\$80,901,000			

CITY OF MANHATTAN BEACH
December 31, 2014

Investments

	Book Value
LAIF	\$27,850,000.00
Medium Term Notes	12,130,786.00
Federal Agency Issues-Coupon	33,071,198.87
Certificates of Deposit	8,051,000.00
Subtotal Investments	<u>\$81,102,984.87</u>

Demand Deposit/Petty Cash

Cash in Bank	\$11,788.64
Petty Cash	2,482.50
Subtotal Demand Deposit	<u>\$14,271.14</u>

<u>Subtotal City Cash & Investments</u>	<u>\$81,117,256.01</u>
--	-------------------------------

Bond Funds Held in Trust

Police Fire Refund Delivery Cost	614,481.26
Marine	36,003.20
Metlox & Water/Wastewater Refunding	755,656.25
Utility Assessment Dist	1,359,647.65
Subtotal Bonds Held in Trust	<u>\$2,765,788.36</u>
Treasurer's Balance	<u><u>\$83,883,044.37</u></u>



**JOHN CHIANG
TREASURER
STATE OF CALIFORNIA**



PMIA Performance Report

LAIF Performance Report

Quarter Ending 12/31/14

Apportionment Rate: 0.25%
 Earnings Ratio: 0.00000696536180771
 Fair Value Factor: 0.99998038
 Daily: 0.26%
 Quarter To Date: 0.26%
 Average Life: 200

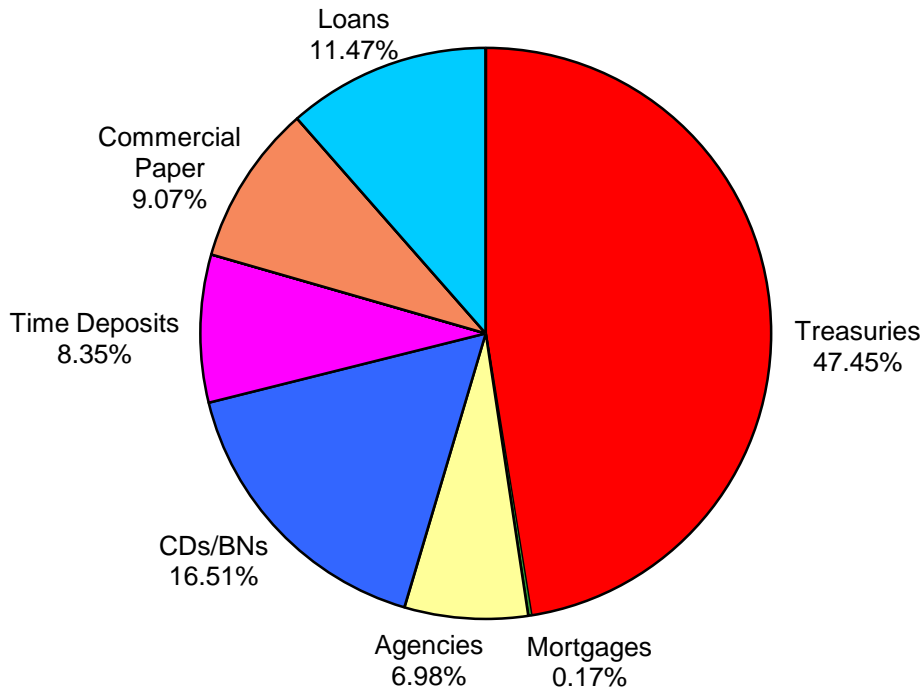
Date	Daily Yield*	Quarter to Date Yield	Average Maturity (in days)
01/01/15	0.26	0.26	200
01/02/15	0.27	0.26	207
01/03/15	0.27	0.27	207
01/04/15	0.27	0.27	207
01/05/15	0.27	0.27	209
01/06/15	0.27	0.27	208
01/07/15	0.26	0.27	208
01/08/15	0.27	0.27	211
01/09/15	0.27	0.27	213
01/10/15	0.27	0.27	213
01/11/15	0.27	0.27	213
01/12/15	0.27	0.27	212
01/13/15	0.27	0.27	212
01/14/15	0.27	0.27	212

PMIA Average Monthly Effective Yields

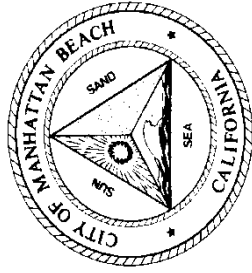
DEC 2014 0.267%
 NOV 2014 0.261%
 OCT 2014 0.261%

*Daily yield does not reflect capital gains or losses

**Pooled Money Investment Account
Portfolio Composition
\$60.3 billion
12/31/14**



City of Manhattan Beach



Financial Reports December 2014 Fiscal Year 2014-2015

City of Manhattan Beach
 Fiscal Year 2014-2015
 Period 6 - December
 General Fund Expenditures By Department

Data Date: 1/30/2015
 Percent Year: 50.0%

	Annual Budget	Current Month	YTD Expend.	YTD Encumb.	Available Budget	Percent Utilized*
11 Management Services	2,677,892	215,804	1,251,929	66,500	1,359,463	49.23
12 Finance	3,774,231	369,762	1,757,022	102,265	1,914,944	49.26
13 Human Resources	1,251,945	72,270	442,597	58,035	751,313	39.99
14 Parks and Recreation	7,664,943	581,926	3,749,679	29,255	3,886,010	49.30
15 Police	23,210,318	1,842,883	11,759,220	2,904	11,448,194	50.68
16 Fire	11,461,981	870,067	5,901,798	51,701	5,508,483	51.94
17 Community Development	4,579,001	509,598	2,148,296	279,053	2,151,652	53.01
18 Public Works	6,915,722	586,411	3,250,895	66,169	3,598,659	47.96
100 General Fund	61,536,033	5,048,721	30,261,435	655,881	30,618,717	50.24

*Percent Utilized includes YTD encumbrances.

City of Manhattan Beach
Fiscal Year 2014 Statement of Revenues & Expenditures
 December 31, 2014

% of Year
50.0%

Current Year Activity

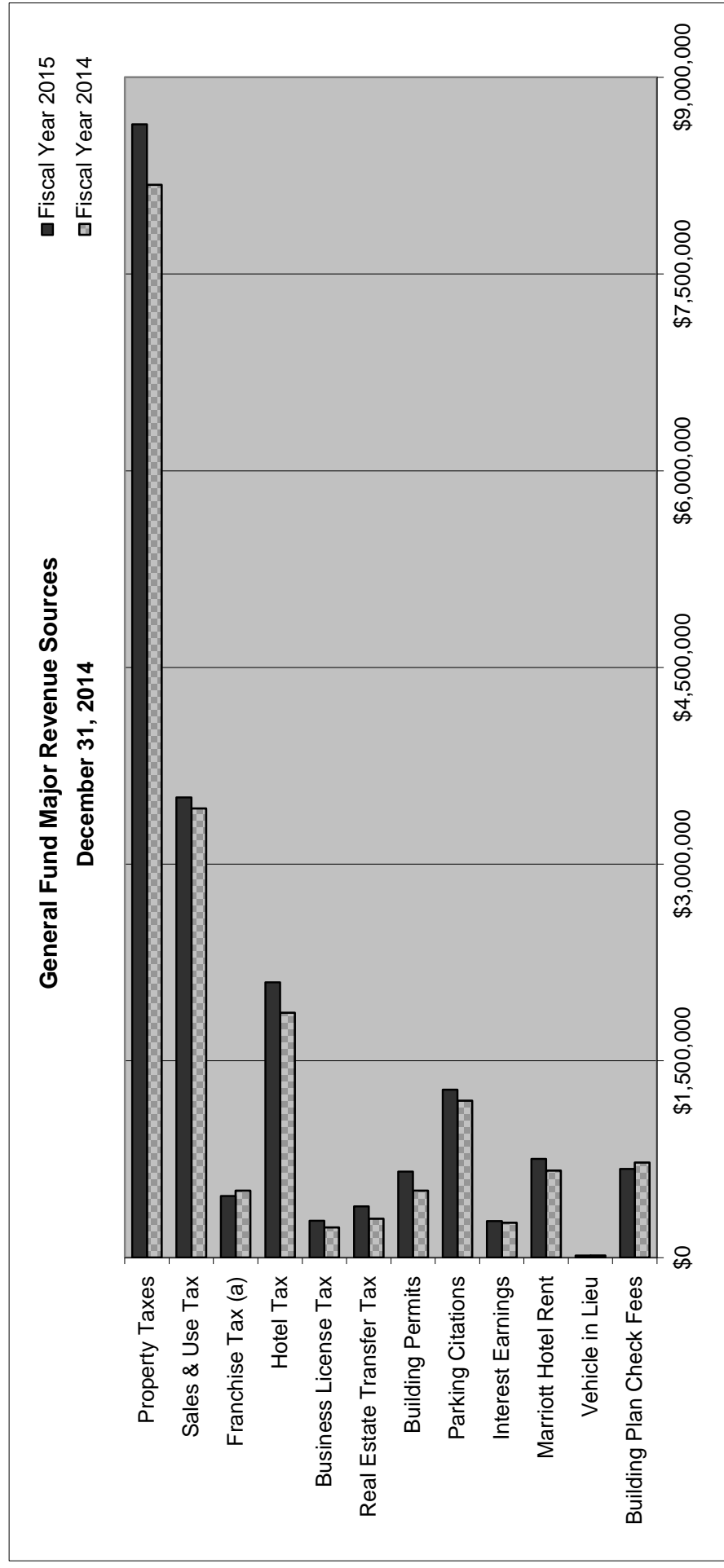
<u>Fund Title</u>	<u>Fund No.</u>	<u>Budgeted Revenue</u>	<u>YTD Revenues</u>	<u>% Realized</u>	<u>Budgeted Expenditures</u>	<u>YTD Expenditures</u>	<u>% Expended</u>
General Fund	100	\$59,846,949	\$25,771,433	43.1%	\$61,536,033	\$30,261,435	49.2%
Street Lighting & Landscaping Fund	201	399,620	151,219	37.8%	652,909	270,172	41.4%
Gas Tax Fund	205	1,202,947	616,887	51.3%	2,965,824	1,026,019	34.6%
Asset Forfeiture	210	7,300	35,566	487.2%	226,345	77,420	34.2%
Police Safety Grants	211	101,200	60,344	59.6%	209,274	72,440	34.6%
Federal & State Grants	220	-	-	n/a	-	-	n/a
Prop A Fund	230	637,699	337,443	52.9%	805,070	344,356	42.8%
Prop C Fund	231	6,118,340	277,161	4.5%	8,814,434	127,422	1.4%
AB 2766 Fund	232	74,197	23,135	31.2%	200,068	4,494	2.2%
Measure R	233	416,577	200,449	48.1%	335,000	-	0.0%
Capital Improvements Fund	401	2,363,901	842,962	35.7%	6,591,162	69,560	1.1%
Underground Assessment District Construction	403	1,200	660	55.0%	-	-	n/a
Water Fund	501	16,546,891	8,915,597	53.9%	16,611,703	4,802,596	28.9%
Storm Drain Fund	502	353,033	128,184	36.3%	1,429,814	212,118	14.8%
Wastewater Fund	503	3,743,047	1,924,088	51.4%	3,784,912	729,014	19.3%
Refuse Fund	510	3,968,705	2,017,386	50.8%	4,335,621	1,694,924	39.1%
Parking Fund	520	2,385,078	1,133,617	47.5%	2,638,942	739,336	28.0%
County Parking Lots Fund	521	775,510	428,456	55.2%	644,806	85,660	13.3%
State Pier & Parking Lot Fund	522	581,729	296,411	51.0%	2,584,282	254,691	9.9%
Insurance Reserve Fund	601	4,661,672	2,389,961	51.3%	4,702,745	4,458,702	94.8%
Information Systems Reserve Fund	605	2,272,016	1,136,010	50.0%	2,861,335	812,982	28.4%
Fleet Management Fund	610	2,223,625	1,199,233	53.9%	2,646,638	864,000	32.6%
Building Maintenance & Operation Fund	615	1,699,779	950,010	55.9%	1,698,391	944,889	55.6%
Special Assessment Debt Service	710	965,000	401,897	41.6%	953,389	759,401	79.7%
City Pension Fund	801	180,900	4,992	2.8%	233,220	108,529	46.5%
		\$111,526,915	\$49,243,099	44.2%	\$127,461,917	\$48,720,160	38.2%

**City of Manhattan Beach
Fiscal Year 2014 General Fund Major Revenue Trends
December 31, 2014**

**Percent of Year
50.0%**

Major Revenue Accounts	Fund No.	Year-To-Date Actuals					FY 2015		
		2010	2011	2012	2013	2014	2015	Adj Budget	Realized
Property Taxes	100	6,430,086	7,088,312	7,280,087	7,711,059	8,179,639	8,641,098	23,911,150	36.14%
Sales & Use Tax	100	2,770,731	3,179,452	3,443,962	3,484,559	3,424,441	3,508,599	9,112,873	38.50%
Franchise Tax (a)	100	402,680	431,320	456,164	488,949	510,705	468,604	1,407,385	33.30%
Hotel Tax	100	1,410,929	1,451,719	1,306,522	1,650,125	1,865,232	2,098,297	3,769,000	55.67%
Business License Tax	100	224,164	200,628	233,441	217,284	228,128	281,688	3,125,000	9.01%
Real Estate Transfer Tax	100	176,438	170,483	257,860	292,127	296,518	391,546	595,000	65.81%
Building Permits	100	368,402	377,856	415,334	402,810	510,745	655,615	1,160,000	56.52%
Parking Citations	100	1,262,005	1,329,643	1,465,507	1,182,946	1,194,969	1,279,395	2,340,000	54.67%
Interest Earnings	100	299,091	271,659	264,025	325,523	265,815	278,409	486,600	57.22%
Marriott Hotel Rent	100	474,599	508,174	440,650	566,045	661,984	753,814	1,320,000	57.11%
Vehicle in Lieu	100	52,724	61,117	95,915	18,887	15,631	15,099	-	-
Building Plan Check Fees	100	277,553	401,735	468,839	527,336	724,276	676,628	1,350,000	50.12%
Total Major Revenue Accounts		14,149,403	15,472,099	16,128,306	16,867,650	17,878,082	19,048,791	48,577,008	39.21%
Over/(Under) Prior Year			1,322,696	656,207	739,344	1,010,433	1,170,708		
Percent Change From Prior Year			9.35%	4.24%	4.58%	5.99%	6.55%		

Other Revenues	5,273,932	5,728,394	6,173,901	5,461,135	6,346,466	6,722,642	11,269,941	59.65%
Total General Fund Revenues	19,423,334	21,200,493	22,302,207	22,328,785	24,224,549	25,771,433	59,846,949	43.06%



(a) The structure of payments for the some of the franchise fees has changed resulting in lower initial revenues at the beginning of the fiscal year as compared to prior years. This revenue will self adjust throughout the year to better align with prior full-year numbers.

Agenda Date: 2/17/2015

TO:

Honorable Mayor Powell and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Marisa Lundstedt, Community Development Director
Laurie Jester, Planning Manager
Jason Masters, Assistant Planner

SUBJECT:

Planning Commission Approval of a Use Permit, Vesting Tentative Parcel Map No. 72860 and a Categorical Exemption under CEQA for a Four-Unit Residential Condominium Project at 1154 North Rowell Avenue (Community Development Director Lundstedt)

RECEIVE AND FILE

RECOMMENDATION:

Staff recommends that the City Council receive and file the decision of the Planning Commission approving the project subject to conditions.

FISCAL IMPLICATIONS:

There are no fiscal implications associated with the recommended action.

BACKGROUND:

The application is a request for a Use Permit and Vesting Tentative Parcel Map for the construction of four residential condominium units located at 1154 North Rowell Avenue, ½ a block north of Manhattan Beach Boulevard. The subject site presently consists of a single family residence and detached garage. The project proposes a single 2-story building with four residential units with below-grade parking, including eight enclosed spaces plus four guest spaces on-site. A public hearing was held on January 28, 2015, at which time the Planning Commission adopted a Resolution approving the project with conditions (Attachment A).

DISCUSSION:

Overview

The project conforms to, or exceeds the City's minimum requirements for use, height, floor area, setbacks, density, parking, landscaping, and open space. The proposed project

contains four residential units totaling 7,264 square feet of Buildable Floor Area (BFA) which is half the number of units allowed and 2,193 square feet (23%) less BFA than the maximum allowed by the parcel size (eight units/9,457 sq. ft. max). The maximum height of the proposed building is 26.6 feet with 30 foot maximum allowed by Code. The project will provide 990 square feet of landscaping in the front yard where 320 square feet is the minimum required by Code. None of the proposed landscaping will be high water use, while 20% maximum is permitted.

Public Input

At the Planning Commission public hearing, the neighbors expressed concerns about pedestrian safety in the surrounding neighborhood particularly regarding children crossing the streets to attend Meadows Elementary School. There was also concern about lack of existing on-street parking, and the possibility of new residents using their garages for storage. Finally residents stated that they felt the project is built to the maximum allowable and would block sun light. The concerns expressed at the hearing were not directly related to the Use Permit application, but rather to other aspects of the project all of which meet or exceed minimum Code criteria. The Planning Commission received and discussed the questions, comments and concerns, and made the determination that a balance was reached between the applicant's proposal and neighbors' concerns.

ENVIRONMENTAL DETERMINATION:

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15303 and 15332 as the project is a small infill development within an urbanized area.

CONCLUSION:

Staff recommends that the City Council receive and file the decision of the Planning Commission approving the project subject to conditions.

ALTERNATIVE:

Any councilmember may remove this item from the Consent Calendar to request council review, in which case staff will schedule a public hearing.

Attachments:

1. Planning Commission Resolution No. PC 15-01
2. Planning Commission Draft Minutes, January 28, 2015
3. Planning Commission Staff Report and Attachments, January 28, 2015

1 RESOLUTION NO. PC 15-01

2 RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN
3 BEACH APPROVING A USE PERMIT AND VESTING TENTATIVE PARCEL MAP NO.
4 72860 FOR CONSTRUCTION OF A NEW FOUR-UNIT RESIDENTIAL CONDOMINIUM
5 BUILDING ON THE PROPERTY LOCATED AT 1154 NORTH ROWELL AVENUE
6 (Bowers & Murphy)

7 THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE
8 AS FOLLOWS:

9 SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following
10 findings:

- 11 A. The Planning Commission of the City of Manhattan Beach conducted a public hearing on January 28,
12 2015, received testimony, and considered an application for a use permit and Vesting Tentative Parcel
13 Map No. 72860 for construction of a proposed 7,264 square foot 4-unit residential condominium
14 building at 1154 North Rowell Avenue in the City of Manhattan Beach. Said public hearing was
15 advertised pursuant to applicable law, testimony was invited and received.
- 16 B. The existing legal description of the site is Portion of Lots 13 & 14, Block 60, Tract No. 141.
- 17 C. The applicants for the subject project are Jeff Bowers & Bryan Murphy, the owners of the property.
- 18 D. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act
19 (CEQA), pursuant to Sections 15303 and 15332 based on staff's determination that the project is a
20 small infill development within an urbanized area.
- 21 E. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as
22 defined in Section 711.2 of the Fish and Game Code.
- 23 F. The property is located within Area District II and is zoned RH, High Density Residential. The use is
24 permitted by the zoning code and is appropriate as conditioned for the high density residential area.
25 The surrounding private land uses consist of Multi-Family Residential dwellings with similar density also
26 zoned RH, High Density Residential with the exception of Meadows Elementary School Northwest of
27 the property which is zoned PS, Public and Semipublic.
- 28 G. The General Plan designation for the property is High Density Residential. The General Plan
29 encourages residential development, such as this, that provides for housing of a more intensive form,
30 including apartments, condominiums, and senior housing. The project is specifically consistent with
31 General Plan Policies as follows:

32 **Land Use Element**

- LU-1.1 Limit the height of new development to three stories where the height limit is thirty feet, or
to two stories where the height limit is twenty-six feet, to protect the privacy of adjacent
properties, reduce shading, protect vistas of the ocean, and preserve the low-profile image
of the community.
- LU-1.2 Require the design of all new construction to utilize notches, balconies, rooflines, open
space, setbacks, landscaping, or other architectural details to reduce the bulk of buildings
and to add visual interest to the streetscape.
- LU-2.2: Preserve and encourage private open space on residential lots citywide.
- LU-2.3 Protect existing mature trees throughout the City, and encourage their replacement with
specimen trees whenever they are lost or removed.

LU-3.1: Continue to encourage quality design in all new construction.

Housing Element

- HE-1: Preserve the scale of development in existing residential neighborhoods.
- HE-1.A: Continue to enforce provisions of the Zoning Code which specify District Development Regulations for height, lot coverage, setbacks, open space and parking.
- HE-3: Provide adequate sites for new housing consistent with the Regional Housing Needs Assessment and the capacity of roadways, sewer lines, and other infrastructure to handle increased growth.

H. Pursuant to Section 10.84.060 of the Manhattan Beach Municipal Code, the following findings for the Use Permit are made:

1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located;

The property is located within Area District II and is Residential High Density (RH). The purpose of the RH zoning district, is to provide opportunities for an intensive form of residential development, including apartments and town houses with relatively high land coverage, at appropriate locations.

2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city;

a. The Project is consistent with the following Goals and Policies of the General Plan: A summary of the reasons for consistency are provided for each of the five categories.

Land Use

The proposed project will provide visually interesting architecture, constructed with quality materials that meets use, height, floor area, setbacks, density, parking, landscaping, and open space requirements. The local infrastructure is adequate to support the proposed development, and the proposed use is consistent with existing established adjacent uses.

Infrastructure

The Project maintains or improves existing infrastructure and requires that all utility systems be undergrounded and to direct storm water run-off to the existing sanitary sewer. Best Management Practices (BMPs) will be used during construction to reduce soil loss, sedimentation and dust/particulate matter air pollution.

Community Resources

The application is providing more than the required landscaping of drought tolerant plants and also includes the protection of existing mature trees and the planting of a 36" box protected tree species.

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Community Safety

The project will have negligible impacts on Community Safety, but the subterranean parking garage and driveway access has been designed and complies with driveway visibility requirements.

Noise

Measures are included to insure no unmitigated construction or operational impacts on surrounding residential receptors. Construction hours are limited, to minimize noise that could exceed codified standards.

3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located;

Proposed improvements within the site area will be developed in accordance with the purpose and standards of the Residential High Density Zoning District in which it is located. Landscaping and open space will be provided at a rate above that required by code, and density, living area and height will be below the maximum allowed. Conditions of approval as discussed below will ensure consistency with the provisions of the Code, and other guiding Policy documents.

4. The proposed use will not adversely impact or be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.

The proposed Project will not result in adverse impacts as the application considers nearby properties by considering design features, site planning, layout of buildings, and parking in a manner which is sensitive to the surrounding uses. The Project includes conditions of approval related to traffic, parking, noise, landscaping, lighting, utilities, and other provisions to ensure that there will not be adverse impacts.

i. Pursuant to Title 11 (Subdivisions) of the Manhattan Beach Municipal Code, the project is be in compliance with applicable provisions including, requiring State Subdivision Map Act and Zoning compliance as included in the Use Permit facts and findings above.

J. This Resolution, upon its effectiveness, constitutes the Use Permit for the subject project.

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit and Vesting Tentative Parcel Map No. 72860 application for a residential condominium building, subject to the following conditions (*indicates a site specific condition):

Site Preparation / Construction

1. The project shall be constructed and operated in substantial compliance with the submitted plans and project description as approved by the Planning Commission on January 28, 2015. Any other substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. A Traffic Management Plan shall be submitted in conjunction with all construction and other building plans, to be approved by the Community Development and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction

related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.

3. All electrical, telephone, cable television system, and similar service wires and cables shall be installed underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department.
4. During building construction of the site, the soil shall be watered in order to minimize the impacts of dust on the surrounding area.
5. The siting of construction related equipment (job site offices, trailers, materials, etc.) shall be subject to the approval from the Director of Community Development prior to the issuance of any building permits.
6. A site landscaping plan utilizing drought tolerant plants shall be submitted for review and approval concurrent with the building permit application. All plants shall be identified on the plan by the Latin and common names. The current edition of the Sunset Western Garden Book contains a list and description of drought tolerant plants suitable for this area.
7. A low pressure or drip irrigation system shall be installed in the landscaped areas, which shall not cause any surface run-off. Details of the irrigation system shall be noted on the landscaping plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments.
8. Backflow prevention valves shall be installed as required by the Department of Public Works, and the locations of any such valves or similar devices shall be subject to approval by the Community Development Department prior to issuance of building permits.
9. All defective or damaged curb, gutter, street paving, and sidewalk improvements shall be removed and replaced with standard improvements, subject to the approval of the Public Works Department.
10. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.
11. Property line clean outs, mop sinks, erosion control, and other sewer and storm water items shall be installed and maintained as required by the Department of Public Works or Building Official. Oil clarifiers and other post construction water quality items may be required. The project shall comply with Standard Urban Stormwater Mitigation Plan as required by the Public Works Department and Building and Safety.
12. Security lighting for the site shall be provided in conformance with Municipal Code requirements including glare prevention design.

Condominium Conditions

13. A survey suitable for purposes of recordation shall be performed by a Civil Engineer or Land Surveyor licensed in the State of California, including permanent monumentation of all property corners and the establishment or certification of centerline ties at the intersections of:
 - a. Rowell Avenue with Manhattan Beach Boulevard
 - b. Rowell Avenue with 12th Street
14. Each new condominium shall have separate water and sewer laterals as required by the Director of Public Works.
15. Vesting Tentative Parcel Map No. 72860 shall be approved for an initial period of 3 years with the option of future extensions. The final map shall be recorded prior to condominium occupancy.

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Procedural

- 16. This Use Permit shall lapse three years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
- 17. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
- 18. The applicant agrees as a condition of approval of this project to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach in defending any legal action brought against the City within 90 days after the city's final approval, other than one by the Applicant, challenging the approval of the project or any action or failure to act by the City relating to the environmental review process pursuant to the California Environmental Quality Act. In the event such a legal action is filed against the City, the City shall estimate its expenses for the litigation. The Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
- 19. The applicant must submit in writing to the City of Manhattan Beach acceptance of all conditions within 30 days of approval of Use Permit.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of January 28, 2015 and that said Resolution was adopted by the following vote:

AYES: Bordokas, Conaway, Hersman,
Chairman Ortmann

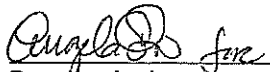
NOES: None

ABSTAIN: None

ABSENT: Andreani



MARISA LUNDSTEDT,
 Secretary to the Planning Commission



Rosemary Lackow,
 Recording Secretary *Rosemary Jackson*

**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
JANUARY 28, 2015**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 28th day of January 28, 2014, at the hour of 6:31 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

1. ROLL CALL

Present: Bordokas, Conaway, Hersman, Chairperson Ortmann
Absent: Andreani
Staff Present: Marisa Lundstedt, Community Development Director
Mike Estrada, City Attorney
Jason Masters, Assistant Planner
Rosemary Lackow, Recording Secretary

2. DIRECTOR'S ITEMS (1)

Community Development Director Lundstedt commented on two items:

- a. Mike Estrada was introduced and will now be providing legal support to the Planning Commission at meetings and will be reviewing the packet including the staff report and Resolutions.
- b. Regarding a proposal to move City commission meeting start times to 6:00 uniformly, there will be an internal staff meeting to discuss this and then the matter will be scheduled for the Planning Commission's consideration at the next available meeting.

3. AUDIENCE PARTICIPATION - None

4. APPROVAL OF MINUTES – December 10, 2014

A motion was MADE and SECONDED (Hersman/Bordokas) to **APPROVE** the minutes of December 10, 2014 with one change: that the name of the Commissioner seconding the motion to approve the minutes of November 12th be corrected to read "Bordokas".

AYES: Bordokas, Hersman, Chairperson Ortmann
NOES: None
ABSENT: Andreani
ABSTAIN: Conaway

5. GENERAL BUSINESS

- 01/28/15-2. Consideration of a Use Permit and Vesting Tentative Parcel Map No. 72860 for Proposed Construction of Four Residential Condominium Units Located at 1154 North Rowell Avenue (Bowers & Murphy)

Assistant Planner Jason Masters gave the staff report with the aid of a power point presentation, providing an overview of the application as well as an analysis and discussion of issues and concluded with the recommendation to conduct the public hearing, accept public testimony and adopt the submitted Resolution approving the subject application subject to conditions.

There were no questions at this time from the Commission.

Jeff Bowers, Minaret Development Partners, applicant, introduced his business partner Bryan Murphy, briefly gave their background. He described their outreach to the neighbors who live in mostly duplexes or multi-family apartments, stating that he received little response. Mr. Bowers believes their product will be more along the “affordable” type of unit in the City.

Chair Ortmann invited the Commission to ask questions of the applicant. **Mr. Bowers** and architect **Robert Sweet** responded as follows:

1. The project lot coverage of 50% as stated in the application is attained due to the fact that setbacks, especially at the front, are generous and when all open space areas are added up, there is actually 50% of the land covered. The open space for units A/B (front) is in the form of private balconies and allocated portions of “yard” areas (not necessarily play yards) and the open space for units C/D (rear) consists of private patios plus allocated portions of rear landscaped areas. (Hersman and Bordokas).
2. There will be 12 on-site parking spaces (Bordokas).
3. The proposed project is an airspace subdivision as opposed to a parcel map where conventional “lots” with lot lines are drawn, and in this type of subdivision, the commonly owned areas are spelled out. A Home Owners Association (HOA) is created with a president who will work out maintenance responsibilities per a recorded agreement. Potential conflicts will be handled by the HOA that may arise within the project with individual unit owners. Until the project is implemented and purchased, it is assumed the developer will act as the HOA president (Conaway and Ortmann).
4. The applicants hope to break ground in spring, 2015. (Hersman)

PUBLIC HEARING

Chairperson Ortmann opened the public hearing and invited testimony.

Dennis Scovel, longtime resident at 1411 12th Street Unit 2, stated his concerns are mainly traffic safety. He cited traffic patterns as cars turn onto 12th Street to get to Manhattan Beach Boulevard via Peck Avenue and has witnessed drivers cutting corners while making left hand turns, and noted also there are many cars parked on the streets which can hinder visibility. He cited two incidents in which one car hit a tree and another in which a driver lost control and smashed into a parked car and noted that with the nearby school, there are several children in the area. He inquired as to whether installing a 4-way stop would improve safety.

Rosie Wegrich owns a duplex at 1400/1406 Rowell; overall agrees with Mr. Scovel and added that traffic on Rowell is especially bad and is concerned that adding more density will in turn add more cars and this will not be complimentary to the neighborhood. She accepts that development is a reality; her concerns are more related to aesthetics, such as loss of sunlight to her units and appreciates the opportunity to voice her concerns.

Gerry O’Connor, longtime resident in the City questions whether the project is “consistent” with the neighborhood as stated in the proposed resolution. He agrees in part that there is some consistency but believes the project is not consistent with the size of the adjoining duplex which, in terms of building size, is about 8 times smaller. **Mr. O’Connor** expressed concern also that the project is not accurately represented in that he believes that it is a fallacy to describe the project as not “maxed out”. He explained that this is because the project given all applicable codes and constraints, cannot in effect attain the permitted buildable floor area (BFA) and hopes that the Planning Commission realizes this. **Mr. O’Connor** stated that he hopes that the Planning Commission can look at the bigger picture and in a more global sense, work towards revisiting the zoning standards.

Chair Ortmann invited the applicant to respond.

Mr. Bowers stated that, regarding density standards, this site has land area to support 8 units so with respect to that development standard the project is well under the allowed units and square feet. He believes that he and his partner understand the issues raised by the neighbors and they want to work with them as their goal is to build very livable units and attract families with children who will attend the nearby school.

Assistant Planner Jason Masters explained how the density (lot area per dwelling unit) and parking standards are applied and stated 8 units maximum are permitted by the formula and the number of parking spaces is related only to the number of units. Director Lundstedt added that regarding parking, the full requirement (units plus guests) is met; regarding traffic safety, the project plans are typically routed through the City Traffic Engineer who confirms staff findings. Regarding project architectural style, scale and size, the City does not have design guidelines and review authority to address style of architecture for projects. She may however suggest at an appropriate time in the future, that the City Council consider adopting such guidelines.

COMMISSION DISCUSSION

Chairperson Ortmann closed the public hearing and invited the Commission to discuss the application.

Commissioner Hersman expressed concern for private storage, and architect **Sweet** explained that each unit has 150 cubic feet of enclosed storage space within the garage in addition to closets within the unit. Mr. **Sweet** responded to the Chair that he is not aware of anything that could prevent a unit resident from using the garage for personal storage instead of full use for parking two cars, and it was pointed out that this happens throughout the City. Chairperson Ortmann stated he believed that in this case he expects the garages to be much used for parking.

Commissioner Conaway stated that the neighbors have expressed very valid concerns. He believes the project is maxed out but not as egregious as it could be, noting the building height is less than allowed. He would like the City to look at open space regulations – that perhaps this is a failure of the mansionization code amendments and suggested that the Commission discuss this matter when they have an opportunity. Open space standards for multi-units is a pet peeve: people come to this area for the wonderful climate and then there is very little open outdoor space for individual units. The amount of open space required is not really a lot and perhaps this is a policy issue that can be raised to the next level. As to traffic control Commissioner Conaway asked if the staff could take this to the Traffic Engineer to investigate installation of a 4-way stop and he would support adding language supporting Mr. Scovel's concerns. Commissioner Conaway added that it seems that after 8 am, the volume of daily construction traffic is quite noticeable.

Director Lundstedt stated residential construction traffic is high on her list, the City's Residential Construction Officer is busy working on this issue and she noted condition 2 addresses construction traffic.

Commissioner Bordokas believes that the issue of traffic safety at the corners should be something that is discussed with the school board and she had never in her term on the board heard of this intersection being brought up for traffic safety improvements.

Commissioner Hersman pointed out the traffic, with people getting in and out of the subdivision in this area is very busy and wondered if the Traffic Engineer should be looking at this area.

Director Lundstedt informed that the Safe Routes to School program is going soon to the City Council.

Chairperson Ortmann stated that the presentation of the project was somewhat context-free and requested that staff consider ways to have projects presented that provide a better sense of context and setting – to give a more holistic perspective to the Commission.

Assistant Planner Masters responded to Commissioner Hersman's concern about the resolution lacking a condition regarding landscape maintenance responsibility, and stated that in this case, green waste containers are provided behind a wall, but with easy access in the lower level plan adjacent to the guest parking spaces. Mr. Masters further stated that the specific handling of the green waste will be the responsibility of the HOA.

Commissioner Conaway noted that on page 3 of the Resolution the findings regarding community resources addresses landscaping and it was determined that the word "protected" refers to a class of trees that is protected from being removed under the city's Tree Ordinance (some palms e.g. are not among those protected). It was determined that instead of "will provide" the finding for Community Resources on page 3 should read "is providing" (more than the required....).

ACTION

A motion was MADE and SECONDED (Hersman/Conaway) to **ADOPT** draft Resolution PC 14 - , approving a CUP and Vesting Tentative Parcel Map No. 72860 for Proposed Construction of Four Residential Condominium Units Located at 1154 North Rowell with correction of a typo in the title (delete "M") and revision of finding for Community Resources as described on page 3.

AYES: Bordokas, Conaway, Hersman, Chairperson Ortmann
NOES: None
ABSENT: Andreani
ABSTAIN: None

Chairperson announced the application is approved and it was noted that, unless appealed within the 15-day period, this decision will be forwarded to the City Council with a recommendation to "receive and file" at the Council's regular meeting on February 17th.

6. **DIRECTOR'S ITEMS (2)** – Director Lundstedt stated she had no additional items to report.

7. **PLANNING COMMISSION ITEMS**

Chairman Ortmann inquired as to the next step for the Urban Land Institute (ULI) visioning study for downtown. Director Lundstedt reported that a video is now posted on the city's website (link: <http://www.ci.manhattan-beach.ca.us/Home/Components/News/News/1844/43>). She highlighted that 127 people were interviewed, exceeding all prior ULI projects worldwide, and much information is available online now. There will be a report around mid-February which will be brought to the City Council in a session in March. Director Lundstedt recapped the consultant selection and noted that ULI was selected **instead of** a recommended local planning consultant but in her perspective because of the phenomenal amount of information considered, a national level planning group with its resources was necessary.

Chairperson Ortmann also asked for status of the Mobility Plan, expressing concern in particular regarding Highland Avenue, wondering whether Highland is to be completely ceded to the automobile. He encourages a public conversation about this in connection with the Mobility Plan, noting it is not mentioned in the plan currently. He wants to share photos of Highland Avenue with the Director or anyone else.

Director Lundstedt will look into this and advise.

8. **TENTATIVE AGENDA** – February 11, 2015

Director Lundstedt indicated that there are no items scheduled for this date at this time.

9. ADJOURNMENT

The meeting was adjourned at 7:48 pm to Wednesday, February 11, 2015 in the City Council Chambers, City Hall, 1400 Highland Avenue.


ROSEMARY LACKOW
Recording Secretary

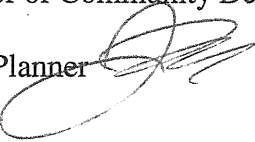
ATTEST:

MARISA LUNDSTEDT
Community Development Director

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT
MEMORANDUM**

TO: Planning Commission

FROM: Marisa Lundstedt, Director of Community Development 

BY: Jason Masters, Assistant Planner 

DATE: January 28, 2015

SUBJECT: Consideration of a Use Permit and Vesting Tentative Parcel Map No. 72860 for Proposed Construction of Four Residential Condominium Units Located at 1154 North Rowell Avenue (Bowers & Murphy)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **ADOPT** the attached draft Resolution approving the project subject to conditions.

APPLICANT

Jeff Bowers and Bryan Murphy
1300 Highland Avenue #202
Manhattan Beach, CA 90266

BACKGROUND

The subject site presently consists of a square-shaped interior lot fronting on Rowell Avenue, one lot north of Manhattan Beach Boulevard, with an existing single family residence and detached garage. The project proposes a single 2-story building containing four residential units with below-grade parking. A vesting tentative parcel map is proposed to subdivide the property into separate ownership for each of the four units in accordance with Section 11.04.030 of the Manhattan Beach Municipal Code (MBMC). Section 10.12.020 of the City's Zoning Code requires use permit approval for residential condominium project of 3 or more units, and all residential projects of 4 or more units.

PROJECT OVERVIEW

LOCATION

Location	1154 North Rowell Ave. between MBB and 12 th St. (See Vicinity Map, attachment B).
Legal Description	Portion of Lots 13 & 14, Block 60 Tract No. 141
Area District	II

LAND USE

General Plan Zoning	High Density Residential RH, High Density Residential
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	<u>Existing</u>	<u>Proposed</u>
Land Use	Single-family residence	4 residential condominium units
Neighboring Zoning/Land Uses	Northwest corner across 12 th Street North South East West (Across Rowell Ave)	Meadows Elementary School RH/Duplex & Multi and single family RH/4-6 unit Apartments RH/Quadruplex RH/4-14 unit Apartments

PROJECT DETAILS

	<u>Proposed</u>	<u>Requirement (Staff Rec)</u>
Parcel Size:	8,008 sq. ft.	4,600 sq. ft. min.
Residential Density:	1 unit / 2,002 sq. ft. lot area	1 unit /1,000 sq. ft. lot area max. (8 units max)
Building Floor Area:	7,264 sq. ft.	9,457 sq. ft. max
Height	26.66 ft.	30 ft. max.
Setbacks		
Front	20 ft.	20 ft.
Rear	12 ft.	12 ft.
North side	8 ft.	8 ft.
South side	8 ft.	8 ft.
Parking:	12 spaces	12 Spaces (2 plus 1 guest per unit)
Vehicle Access	Rowell Ave driveway	N/A
Open Space	>15% of unit area	15% of unit area min.
Landscaping	990 sq. ft. total	320 sq. ft. front yard min.

DISCUSSION

The proposed plans (attachment D) show an existing single-family residence and detached garage to be demolished and the site to be redeveloped with a 2-story building containing four residential units, which would be owned separately in a condominium subdivision. The site would contain 7,264 square feet of living area above 12 below-grade parking spaces in the subterranean parking garage which includes four guest spaces within the garage. Pedestrian and driveway access would be taken from Rowell Avenue.

The proposed 2-story building, plus subterranean parking, would replace the existing 1,425 sq. ft. single-story building on the property with substantially increased floor area. The existing driveways would be moved from the south side to the center of the property. The residences are attached, with each 2-story unit sharing exterior garage access. The site is 80 feet wide, which requires an 8-foot side yard. Upper levels provide required supplemental side yard setbacks, and deck area/open space provides additional building modulation. The existing palm trees are to remain with a proposed 36" box tree.

The project conforms to the City's requirements for use, height, floor area, setbacks, density, parking, landscaping, and open space (MBMC 10.12.030). The project issues that warrant discussion include the following: trash, and project design.

Trash:

The Zoning Code (Section 10.52.110 B.10) requires condominiums to provide enclosed trash areas, and the Public Works Department determines appropriate storage and pick-up procedures. Larger residential projects may require commercial sized bins and service however, Public Works has determined that residential trash service is appropriate for this 4-unit development. The project has been accordingly designed with space for trash and recycling cans in the subterranean garage, to be placed on the street for weekly pick-up. Standard yard waste bins would also be provided on-site.

Project Design:

The project design is in conformance with all applicable regulations including the 2,250 sq. ft. + .9 floor area ratio (9,453 sq. ft. max proposed) of the RH zone (10.12.030 Lot area more than 7,500 sq. ft.). The overall appearance of the project is a modern style featuring deck area recessions and a flat roof. The project would replace the existing single-family residence with a single 2-story building with subterranean parking with substantially more floor area. This is consistent with the size and scale of similar buildings in the immediate area which includes duplexes, quadruplexes, and apartment buildings ranging from 4 to 14 units.

General:

Pursuant to MBMC Section 10.84.060, Staff believes that the following required findings, as detailed in the draft Resolution (Attachment A) for the Use Permit can be made:

1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located because
2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city;
3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located; and
4. The proposed use will not adversely impact or be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.

These findings can be made as the proposed project will meet the use, height, floor area, setbacks, density, parking, landscaping, and open space requirements of the MBMC, and the proposed use is consistent with existing established adjacent uses. The project will not impact existing infrastructure and will direct storm water run-off to the existing sanitary sewer. Best Management Practices (BMPs) will be used during construction to reduce soil loss and sedimentation. Dust/particulate matter air pollution measures are included to ensure no unmitigated construction or operational impacts on surrounding residential receptors. The project will provide more than the required landscaping, including drought tolerant plants, the protection of existing mature trees and the planting of a 36" box protected tree species. The subterranean parking garage and driveway access complies with driveway visibility requirements

The General Plan encourages residential development, such as this, that provides for multi-family housing in multi-family areas, including apartments, condominiums, and senior housing. The project is specifically consistent with General Plan Policies as follows:

Land Use Element

- | | |
|--------|---|
| LU-1.1 | Limit the height of new development to three stories where the height limit is thirty feet, or to two stories where the height limit is twenty-six feet, to protect the privacy of adjacent properties, reduce shading, protect vistas of the ocean, and preserve the low-profile image of the community. |
| LU-1.2 | Require the design of all new construction to utilize notches, balconies, rooflines, open space, setbacks, landscaping, or other |

architectural details to reduce the bulk of buildings and to add visual interest to the streetscape.

LU-2.3 Protect existing mature trees throughout the City, and encourage their replacement with specimen trees whenever they are lost or removed.

LU-3.1: Continue to encourage quality design in all new construction.

Housing Element

HE-1: Preserve the scale of development in existing residential neighborhoods.

HE-1.A: Continue to enforce provisions of the Zoning Code which specify District Development Regulations for height, lot coverage, setbacks, open space and parking.

HE-3. Provide adequate sites for new housing consistent with the Regional Housing Needs Assessment and the capacity of roadways, sewer lines, and other infrastructure to handle increased growth.

The proposed project is consistent with these policies because it does not exceed 3 stories or 30 feet in height, it will provide visually interesting architecture which meets all applicable development standards and will maintain existing mature trees in addition to planting a new protected tree. The project will be consistent with the scale of development in the existing neighborhood. Which is largely multi-family residential with 4-14 units, 2-3 stories in height, and will provide three additional housing units for the City while having a negligible effect on existing infrastructure capacity.

Public Input:

A public notice for the project was mailed to property owners within 500 feet of the site and published in the Beach Reporter newspaper. Staff has not received any inquiries to the project hearing notice. Additionally, the project was circulated to other City Departments whose comments have been incorporated into the proposed plans.

ENVIRONMENTAL DETERMINATION

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15303 and 15332 based on staff's determination that the project is a small infill development within an urbanized area.

CONCLUSION

Staff recommends that the Planning Commission accept public hearing testimony, discuss the project issues, and adopt the attached draft Resolution approving the project subject to conditions.

Attachments:

- A. Draft Resolution No. PC 14-
- B. Vicinity Map
- C. Applications
- D. Plans

c: Jeff Bowers and Bryan Murphy
1300 Highland Avenue #202
Manhattan Beach, CA 90266

RESOLUTION NO. PC 15-XX

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT FOR CONSTRUCTION OF A NEW FOUR-UNIT RESIDENTIAL CONDOMINIUM BUILDING ON THE PROPERTY LOCATED AT 1154 NORTH ROWELL AVENUE (Bowers & Murphy)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing on January 28, 2015, received testimony, and considered an application for a use permit and Vesting Tentative Parcel Map No. 72860 for construction of a proposed 7,264 square foot 4-unit residential condominium building at 1154 North Rowell Avenue in the City of Manhattan Beach. Said public hearing was advertised pursuant to applicable law, testimony was invited and received.
- B. The existing legal description of the site is Portion of Lots 13 & 14, Block 60, Tract No. 141.
- C. The applicants for the subject project are Jeff Bowers & Bryan Murphy, the owners of the property.
- D. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15303 and 15332 based on staff's determination that the project is a small infill development within an urbanized area.
- E. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The property is located within Area District II and is zoned RH, High Density Residential. The use is permitted by the zoning code and is appropriate as conditioned for the high density residential area. The surrounding private land uses consist of Multi-Family Residential dwellings with similar density also zoned RH, High Density Residential with the exception of Meadows Elementary School Northwest of the property which is zoned PS, Public and Semipublic.
- G. The General Plan designation for the property is High Density Residential. The General Plan encourages residential development, such as this, that provides for housing of a more intensive form, including apartments, condominiums, and senior housing. The project is specifically consistent with General Plan Policies as follows:

Land Use Element

- LU-1.1 Limit the height of new development to three stories where the height limit is thirty feet, or to two stories where the height limit is twenty-six feet, to protect the privacy of adjacent properties, reduce shading, protect vistas of the ocean, and preserve the low-profile image of the community.
- LU-1.2 Require the design of all new construction to utilize notches, balconies, rooflines, open space, setbacks, landscaping, or other architectural details to reduce the bulk of buildings and to add visual interest to the streetscape.
- LU-2.2: Preserve and encourage private open space on residential lots citywide.
- LU-2.3 Protect existing mature trees throughout the City, and encourage their replacement with specimen trees whenever they are lost or removed.

LU-3.1: Continue to encourage quality design in all new construction.

Housing Element

HE-1: Preserve the scale of development in existing residential neighborhoods.

HE-1.A: Continue to enforce provisions of the Zoning Code which specify District Development Regulations for height, lot coverage, setbacks, open space and parking.

HE-3. Provide adequate sites for new housing consistent with the Regional Housing Needs Assessment and the capacity of roadways, sewer lines, and other infrastructure to handle increased growth.

H. Pursuant to Section 10.84.060 of the Manhattan Beach Municipal Code, the following findings for the Use Permit are made:

1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located;

The property is located within Area District II and is Residential High Density (RH). The purpose of the RH zoning district, is to provide opportunities for an intensive form of residential development, including apartments and town houses with relatively high land coverage, at appropriate locations.

2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city;

a. The Project is consistent with the following Goals and Policies of the General Plan: A summary of the reasons for consistency are provided for each of the five categories.

Land Use

The proposed project will provide visually interesting architecture, constructed with quality materials that meets use, height, floor area, setbacks, density, parking, landscaping, and open space requirements. The local infrastructure is adequate to support the proposed development, and the proposed use is consistent with existing established adjacent uses.

Infrastructure

The Project maintains or improves existing infrastructure and requires that all utility systems be undergrounded and to direct storm water run-off to the existing sanitary sewer. Best Management Practices (BMPs) will be used during construction to reduce soil loss, sedimentation and dust/particulate matter air pollution.

Community Resources

The application will provide more than the required landscaping of drought tolerant plants and also includes the protection of existing mature trees and the planting of a 36” box protected tree species.

Community Safety

The project will have negligible impacts on Community Safety, but the subterranean parking garage and driveway access has been designed and complies with driveway visibility requirements.

Noise

Measures are included to insure no unmitigated construction or operational impacts on surrounding residential receptors. Construction hours are limited, to minimize noise that could exceed codified standards.

3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located;

Proposed improvements within the site area will be developed in accordance with the purpose and standards of the Residential High Density Zoning District in which it is located. Landscaping and open space will be provided at a rate above that required by code, and density, living area and height will be below the maximum allowed. Conditions of approval as discussed below will ensure consistency with the provisions of the Code, and other guiding Policy documents.

4. The proposed use will not adversely impact or be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.

The proposed Project will not result in adverse impacts as the application considers nearby properties by considering design features, site planning, layout of buildings, and parking in a manner which is sensitive to the surrounding uses. The Project includes conditions of approval related to traffic, parking, noise, landscaping, lighting, utilities, and other provisions to ensure that there will not be adverse impacts.

- I. Pursuant to Title 11 (Subdivisions) of the Manhattan Beach Municipal Code, the project is be in compliance with applicable provisions including, requiring State Subdivision Map Act and Zoning compliance as included in the Use Permit facts and findings above.
- J. This Resolution, upon its effectiveness, constitutes the Use Permit for the subject project.

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit and Vesting Tentative Parcel Map No. 72860 application for a residential condominium building, subject to the following conditions (*indicates a site specific condition):

Site Preparation / Construction

- 1. The project shall be constructed and operated in substantial compliance with the submitted plans and project description as approved by the Planning Commission on January 28, 2015. Any other substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
- 2. A Traffic Management Plan shall be submitted in conjunction with all construction and other building plans, to be approved by the Community Development and Public Works

Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.

3. All electrical, telephone, cable television system, and similar service wires and cables shall be installed underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department.
4. During building construction of the site, the soil shall be watered in order to minimize the impacts of dust on the surrounding area.
5. The siting of construction related equipment (job site offices, trailers, materials, etc.) shall be subject to the approval from the Director of Community Development prior to the issuance of any building permits.
6. A site landscaping plan utilizing drought tolerant plants shall be submitted for review and approval concurrent with the building permit application. All plants shall be identified on the plan by the Latin and common names. The current edition of the Sunset Western Garden Book contains a list and description of drought tolerant plants suitable for this area.
7. A low pressure or drip irrigation system shall be installed in the landscaped areas, which shall not cause any surface run-off. Details of the irrigation system shall be noted on the landscaping plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments.
8. Backflow prevention valves shall be installed as required by the Department of Public Works, and the locations of any such valves or similar devices shall be subject to approval by the Community Development Department prior to issuance of building permits.
9. All defective or damaged curb, gutter, street paving, and sidewalk improvements shall be removed and replaced with standard improvements, subject to the approval of the Public Works Department.
10. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.
11. Property line clean outs, mop sinks, erosion control, and other sewer and storm water items shall be installed and maintained as required by the Department of Public Works or Building Official. Oil clarifiers and other post construction water quality items may be required. The project shall comply with Standard Urban Stormwater Mitigation Plan as required by the Public Works Department and Building and Safety.
12. Security lighting for the site shall be provided in conformance with Municipal Code requirements including glare prevention design.

Condominium Conditions

13. A survey suitable for purposes of recordation shall be performed by a Civil Engineer or Land Surveyor licensed in the State of California, including permanent monumentation of all property corners and the establishment or certification of centerline ties at the intersections of:
 - a. Rowell Avenue with Manhattan Beach Boulevard
 - b. Rowell Avenue with 12th Street
14. Each new condominium shall have separate water and sewer laterals as required by the Director of Public Works.

- 15. Vesting Tentative Parcel Map No. 72860 shall be approved for an initial period of 3 years with the option of future extensions. The final map shall be recorded prior to condominium occupancy.

Procedural

- 16. This Use Permit shall lapse three years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
- 17. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
- 18. The applicant agrees as a condition of approval of this project to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach in defending any legal action brought against the City within 90 days after the city’s final approval, other than one by the Applicant, challenging the approval of the project or any action or failure to act by the City relating to the environmental review process pursuant to the California Environmental Quality Act. In the event such a legal action is filed against the City, the City shall estimate its expenses for the litigation. The Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
- 19. The applicant must submit in writing to the City of Manhattan Beach acceptance of all conditions within 30 days of approval of Use Permit.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of January 28, 2015 and that said Resolution was adopted by the following vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

MARISA LUNDSTEDT,
Secretary to the Planning Commission

Rosemary Lackow,
Recording Secretary

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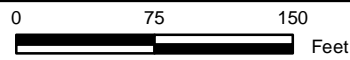
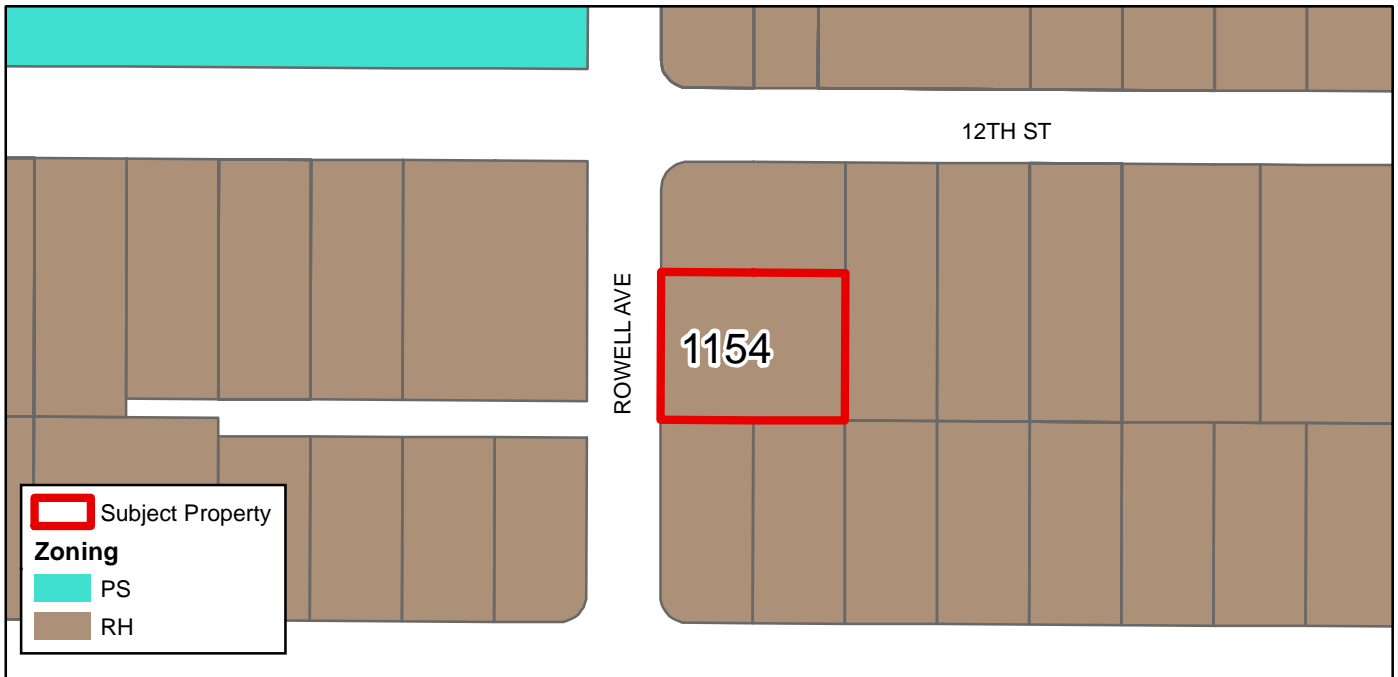
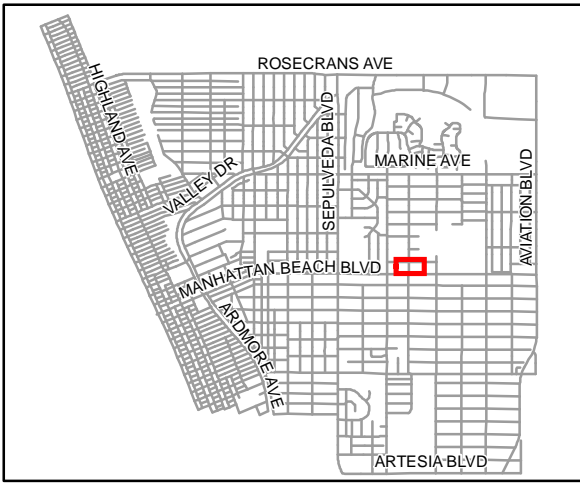
Vicinity Map

1154 N Rowell Ave

ATTACHMENT B
PC MTG 1-28-15



January 14, 2015



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OWNER'S AFFIDAVIT

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I/We JEFFREY BOWERS being duly sworn, depose and say that I am/we are the owner(s) of the property involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief(s).

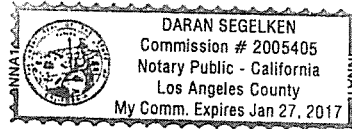
[Signature]
Signature of Property Owner(s) – (Not Owner in Escrow or Lessee)

JEFFREY BOWERS
Print Name

1300 HIGHLAND AVE. #202, MANHATTAN BEACH, CA 90266
Mailing Address

(310) 433-4002
Telephone

Subscribed and sworn to before me,
this 17 day of September, 2014
in and for the County of Los Angeles
State of CA



Notary Public

Fee Schedule Summary

Below are the fees typically associated with the corresponding applications. Additional fees not shown on this sheet may apply – refer to current City Fee Resolution (contact the Planning Department for assistance.) Fees are subject to annual adjustment.

Submitted Application (circle applicable fees, apply total to Fee Summary on application)

Coastal Development Permit

Filing Fee (public hearing – no other discretionary approval required): \$ 4,615

Filing Fee (public hearing – other discretionary approvals required): 1,660

Filing Fee (no public hearing required – administrative): 920

Use Permit

Use Permit Filing Fee: \$ 5,200

Master Use Permit Filing Fee: 8,255

Master Use Permit Amendment Filing Fee: 4,740

Master Use Permit Conversion: 4,075

Variance

Filing Fee: \$ 5,160

Minor Exception

Filing Fee (without notice): \$ 1,775

Filing Fee (with notice): 2,020

Subdivision

Certificate of Compliance: \$ 1,560

Final Parcel Map + mapping deposit: 515

Final Tract Map + mapping deposit: 595

Mapping Deposit (paid with Final Map application): 500

Merger of Parcels or Lot Line Adjustment: 1,155

Quimby (Parks & Recreation) fee (per unit/lot): 1,817

Tentative Parcel Map (4 or less lots / units) No Public Hearing: 915

Tentative Parcel Map (4 or less lots / units) Public Hearing: 3,325

Tentative Tract Map (5 or more lots / units): 4,080

Environmental Review (contact Planning Division for applicable fee)

Environmental Assessment (no Initial Study prepared): \$ 215

Environmental Assessment (if Initial Study is prepared): 2,260

Fish and Game/CEQA Exemption County Clerk Posting Fee²: 75



Public Notification Fee applies to all projects with public hearings and covers the city's costs of envelopes, postage and handling the mailing of public notices. Add this to filing fees above, as applicable: \$ 85

6,415

²Make a separate \$75 check payable to LA County Clerk, (DO NOT PUT DATE ON CHECK)

9/16/14

Findings for 1154 Rowell Ave.

1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located.

The site is located in RH Area District II which allows the proposed use.

2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city;

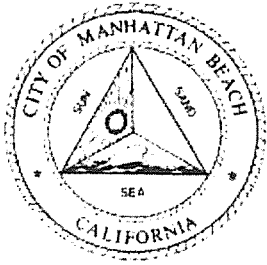
The site is located in adjacent to properties with the same use or denser uses, such as Apartment buildings, Townhouses, and Duplexes.

3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located;

The site is located in RH Area District II which allows the proposed use.

4. The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.

The site is located in adjacent to properties with the same use or denser uses, such as Apartment buildings, Townhouses, and Duplexes.



ENVIRONMENTAL INFORMATION FORM

(to be completed by applicant)

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

Date Filed: 9/16/14

APPLICANT INFORMATION

Name: Jeff Bowers & Bryan Murphy

Contact Person: Robert Sweet

Address: 1154 N Rowell Ave, MB 90266

Address: 2507 190th St, Redondo Beach

Phone number: 310 433-4002

Phone number: 310 937 1760

Relationship to property: Owners

Association to applicant: Representative

PROJECT LOCATION AND LAND USE

Project Address: 1154 N Rowell Ave

Assessor's Parcel Number: 4166-009-012

Legal Description: TRACT #141 S 80.10 FT OF LOTS 13 AND 14

Area District, Zoning, General Plan Designation: Area District II, Zone RH (Coastal Exempt)

Surrounding Land Uses:

North Townhomes

West Apartments

South Apartments

East Duplex

Existing Land Use: Single family

PROJECT DESCRIPTION

Type of Project: Commercial _____ Residential x Other _____

If Residential, indicate type of development (i.e.; single family, apartment, condominium, etc.) and number of units: 4 Townhouse Units

If Commercial, indicate orientation (neighborhood, citywide, or regional), type of use anticipated, hours of operation, number of employees, number of fixed seats, square footage of kitchen, seating, sales, and storage areas: _____

If use is other than above, provide detailed operational characteristics and anticipated intensity of the development: _____

Removed/

	<u>Existing</u>	<u>Proposed</u>	<u>Required</u>	<u>Demolished</u>
Project Site Area:	LOT = 8,004 SF	8,004 SF	10,080 Max	
Building Floor Area:	1,425 SF	7,320 SF	9,453 Max	1,425
Height of Structure(s)	14'	24' + 29'	30' Max	
Number of Floors/Stories:	1	2	3 Max	
Percent Lot Coverage:	23%	52%		
Off-Street Parking:	2	6	6	2
Vehicle Loading Space:				
Open Space/Landscaping:	N/A	1,573 / 1,920	1,098 Min	

Proposed Grading:

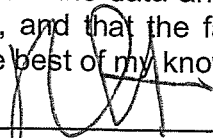
Cut 856 cu yd Fill 86 Balance 770 Imported _____ Exported 770

Will the proposed project result in the following (*check all that apply*):

- | <u>Yes</u> | <u>No</u> | |
|---------------|--------------|--|
| <u> </u> | <u> x </u> | Changes in existing features or any bays, tidelands, beaches, lakes, or hills, or substantial alteration of ground contours? |
| <u> </u> | <u> x </u> | Changes to a scenic vista or scenic highway? |
| <u> </u> | <u> x </u> | A change in pattern, scale or character of a general area? |
| <u> </u> | <u> x </u> | A generation of significant amount of solid waste or litter? |
| <u> </u> | <u> x </u> | A violation of air quality regulations/requirements, or the creation of objectionable odors? |
| <u> </u> | <u> x </u> | Water quality impacts (surface or ground), or affect drainage patters? |
| <u> </u> | <u> x </u> | An increase in existing noise levels? |
| <u> </u> | <u> x </u> | A site on filled land, or on a slope of 10% or more? |
| <u> </u> | <u> x </u> | The use of potentially hazardous chemicals? |
| <u> </u> | <u> x </u> | An increased demand for municipal services? |
| <u> </u> | <u> x </u> | An increase in fuel consumption? |
| <u> </u> | <u> x </u> | A relationship to a larger project, or series of projects? |

Explain all "Yes" responses (*attach additional sheets or attachments as necessary*):

CERTIFICATION: I hereby certify that the statements furnished above and in attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

Signature: 

Prepared For: Jeff Bowers & Bryan Murphy

Date Prepared: 9/16/14

Revised 7/97

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General Notes

- ALL WORK, INCLUDING MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE REQUIREMENTS OF LOCAL CODES, LAWS, AND ORDINANCES AND AS SPECIFIED BY CONTRACT DOCUMENTS AND THE FIELD CONDITIONS, OR WITHIN THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL NOTIFY THE ARCHITECT / DESIGNER IMMEDIATELY FOR CLARIFICATION.
- THE INTENTION OF THE CONTRACT DOCUMENTS IS TO INCLUDE ALL LABOR AND MATERIALS, EQUIPMENT, AND TRANSPORTATION NECESSARY FOR THE COMPLETE AND PROPER EXECUTION OF THE WORK.
- THE CONTRACTOR SHALL VISIT THE JOB SITE PRIOR TO BIDDING ANY PORTION OF THE WORK. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS PRIOR TO BEGINNING WORK. SHOULD ANY CONDITION ARISE WHERE THERE IS IN DOUBT OR WHERE THERE IS A DISCREPANCY BETWEEN THE CONTRACT DOCUMENTS AND THE FIELD CONDITIONS, OR WITHIN THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL NOTIFY THE ARCHITECT / DESIGNER IMMEDIATELY FOR CLARIFICATION.
- DIMENSIONS ARE FROM FACE OF STUDS OR TO CENTER OF WALL AS INDICATED ON DRAWINGS, UNLESS NOTED OTHERWISE.
- WRITTEN DIMENSIONS TAKE PRECEDENCE. DO NOT SCALE DRAWINGS. WALLS NOT DIMENSIONED ARE TO ALIGN WITH EXISTING WALLS OR BE ABUTTED OR APPLIED TO EXISTING WALLS PER DRAWINGS.
- REFERENCE TO ANY DETAIL OR DRAWING IS FOR CONVENIENCE ONLY AND DOES NOT LIMIT THE APPLICATION OF SUCH DETAILS OR DRAWINGS.
- THE DESIGN, ADEQUACY AND SAFETY OF ERECTION BRACKING, SHORING, TEMPORARY SUPPORTS, ETC. IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE STABILITY OF THE STRUCTURE AND PROVIDE NECESSARY BRACING PRIOR TO THE APPLICATION OF ALL SHEAR WALLS, ROOF AND FLOOR DIAPHRAGMS, AND FINISH MATERIALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR INITIATING, MAINTAINING, AND SUPERVISING ALL SAFETY PRECAUTIONS AND PROGRAMS IN CONNECTION WITH THE WORK.
- DRAWINGS OF OTHER CONSULTANTS, ARE SUPPLEMENTARY TO THE ARCHITECTURAL DRAWINGS. IT SHALL BE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR TO CHECK WITH THE ARCHITECTURAL DRAWINGS BEFORE THE INSTALLATION OF WORK SHOWN ON THE DRAWINGS OF CONSULTANTS. THE CONTRACTOR SHALL BRING ANY DISCREPANCY BETWEEN THE ARCHITECTURAL DRAWINGS AND THE DRAWINGS OF THE CONSULTANTS TO THE ATTENTION OF THE ARCHITECT / DESIGNER FOR CLARIFICATION. ANY WORK INSTALLED IN CONFLICT WITH THE ARCHITECTURAL DRAWINGS AND NOT BROUGHT TO THE ARCHITECT'S / DESIGNER'S ATTENTION SHALL BE CONNECTED BY THE CONTRACTOR AT THE CONTRACTOR'S EXPENSE AND AT NO EXPENSE TO THE OWNER OR ARCHITECT / DESIGNER.
- PRIOR TO PERFORMANCE OF WORK, THE CONTRACTOR SHALL REQUIRE EACH SUBCONTRACTOR TO NOTIFY THE CONTRACTOR OF ANY WORK CALLED OUT IN THE DRAWINGS FOR HIS TRADE THAT CANNOT BE FULLY GUARANTEED.
- CONTRACTOR SHALL VERIFY THE LOCATION AND SIZE OF ALL OPENINGS WITH ALL DRAWINGS AND MANUFACTURED ITEMS WHERE APPLICABLE.
- THE CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK AND BE SOLELY RESPONSIBLE FOR ALL CONSTRUCTION, MEANS, METHODS, TECHNIQUES, SEQUENCES, AND PROCEDURES, AND FOR COORDINATING ALL PORTIONS OF THE WORK.
- THE CONTRACTOR HEREIN AGREES TO REPAIR OR REPLACE ANY OR ALL WORK, TOGETHER WITH ANY OTHER ADJACENT WORK WHICH MAY BE DISPLACED IN CONNECTION WITH SUCH REPLACEMENT, THAT MAY PROVE TO BE DEFECTIVE IN WORKMANSHIP OR MATERIALS WITHIN A PERIOD OF ONE YEAR FROM THE DATE OF ACCEPTANCE, ORDINARY WEAR AND UNUSUAL ABUSE OR NEGLECT EXCEPTED.
- CONTRACTOR SHALL PROTECT ALL EXISTING STRUCTURES, LANDSCAPING, MATERIALS, ETC. DURING CONSTRUCTION. CONTRACTOR SHALL PATCH AND REPAIR ALL SURFACES DISRUPTED OR DAMAGED DURING CONSTRUCTION TO MATCH EXISTING ADJACENT SURFACES.
- THE CONTRACTOR SHALL ON A DAILY BASIS KEEP THE PREMISES FREE FROM ALL ACCUMULATIONS OF WASTE MATERIAL OR RUBBISH CAUSED BY HIS EMPLOYEES, SUBCONTRACTORS, OR WORK AND AT THE COMPLETION OF THE WORK SHALL REMOVE ALL RUBBISH, DEBRIS, EQUIPMENT, AND SURPLUS MATERIALS FROM IN AND ABOUT THE BUILDING AND LEAVE THE PREMISES "BROOM CLEAN".
- ANY DEVIATION FROM THE CONSTRUCTION DOCUMENTS OR SPECIFICATIONS BY THE CONTRACTOR OR OWNER WITHOUT THE ARCHITECT'S / DESIGNER'S APPROVAL RELEASES THE ARCHITECT / DESIGNER OF RESPONSIBILITY AND LIABILITY IN CONNECTION WITH ALL WORK SO INVOLVED.
- CLARIFICATIONS ON AND/OR INCONSISTENCIES WITH THE DRAWINGS AND SPECIFICATIONS SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT / DESIGNER BY THE CONTRACTOR PRIOR TO COMMENCEMENT OF WORK. ADDITIONAL CHANGES WILL NOT BE GRANTED BASED ON CLAIMS OF INCOMPLETE, INACCURATE, OR INCONSISTENT DRAWINGS AND SPECIFICATIONS.

City of Manhattan Beach Notes & Code Amendments

- SEPARATE PERMITS AND PLANS ARE REQUIRED FOR SPAS, POOLS, SOLAR SYSTEMS, DEMOLITION AND SEWER CAP OF EXISTING BUILDINGS.
- SHOWER COMPARTMENTS AND WALLS ABOVE BATHTUBS WITH INSTALLED SHOWER HEADS SHALL BE FINISHED WITH A SMOOTH AND NONABSORBENT SURFACE TO A HEIGHT NOT LESS THAN 70" ABOVE THE DRAIN INLET PER CBC 1210.3. USE WATER-RESISTANT GYPSUM BACKING BOARD SHALL BE PER CBC 2509.2.
- FLUSH VOLUMES FOR LOW-CONSUMPTION AND WATER SAVER WATER CLOSETS SHALL BE PROVIDED WITH A MAX 1.6 GALLONS OF WATER PER FLUSH.
- ALL NEW PLUMBING FIXTURES SHALL BE CERTIFIED LOW FLOW FIXTURES.
- CONTROL VALVE FOR SHOWER OR TUB-SHOWER SHALL BE OF THE PRESSURE BALANCE OR THERMOSTATIC MIXING VALVE TYPE PER UPC 420.0.
- WATER HEATER SHALL BE STRAPPED TO WALL AT POINTS WITHIN THE UPPER 1/3 AND LOWER 1/3 OF ITS VERTICAL DIMENSIONS WITH THE LOWER A MIN. 4" ABOVE THE CONTROLS.
- GARAGE DOOR EXTENSION SPRINGS SHALL BE FABRICATED FROM EITHER HARD DRAWN SPRING WIRE OR OIL-TEMPERED WIRE AND INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTRUCTION.
- CEMENT, FIBER CEMENT OR GLASS MAT GYPSUM BACKERS IN COMPLIANCE WITH ASTM C 1178, C 1288 OR C 1325 AND INSTALLED IN ACCORDANCE WITH MANUFACTURER RECOMMENDATIONS SHALL BE USED AS A BASE FOR WALL TILE IN TUB AND SHOWER AREAS AND WALL AND CEILING PANELS IN SHOWER AREAS. WATER RESISTANT GYPSUM BACKING BOARD SHALL BE USED AS BASE FOR TILE IN WATER CLOSET COMPARTMENT WALLS WHEN INSTALLED IN ACCORDANCE WITH GA-216 OR ASTM C940. REGULAR GYPSUM WALLBOARD IS PERMITTED UNDER TILE OR WALL PANELS IN OTHER WALL AND CEILING AREAS WHEN INSTALLED IN ACCORDANCE WITH GA-216 OR ASTM C940. WATER RESISTANT GYPSUM SHALL NOT BE USED IN THE FOLLOWING LOCATIONS: A) OVER A VAPOR BARRIER, B) IN AREAS SUBJECT TO CONDENSATION, HIGH HUMIDITY, SUCH AS SAUNAS, STEAM ROOMS, OR GANG SHOWER ROOMS. C) ON CEILINGS WHERE FRAME SPACING EXCEEDS 12" O.C. FOR 1/2" THICK AND MORE THAN 16" O.C. FOR 5/8" THICK.
- COOKING EQUIPMENT MUST BE LISTED FOR RESIDENTIAL USE.
- TWO 20-AMP SMALL APPLIANCE BRANCH CIRCUITS SERVING THE KITCHEN COUNTER RECEPTACLES SHALL HAVE NO OTHER OUTLETS PER CEC ARTICLE 210.52(B).
- A DEDICATED 20-AMP CIRCUIT IS REQUIRED TO SERVE THE REQUIRED BATHROOM RECEPTACLES PER CEC ARTICLE 210.11(C)3.
- ALL BEDROOM RECEPTACLES SHALL BE PROTECTED BY AN ARC-FULT CIRCUIT INTERRUPTER LISTED TO PROVIDE PROTECTION OF THE ENTIRE BRANCH CIRCUIT PER CEC ARTICLE 210.12(B).
- APPLIANCES SUCH AS KITCHEN SINK, FOOD GRINDERS, DISHWASHERS, MICROWAVE OVENS, TRASH COMPACTORS, WASHING MACHINES, DRYERS, REFRIGERATORS, AIR CONDITIONERS, FANS, BUILT IN HEATERS OR ANY FIXED APPLIANCE WITH MOTOR LARGER THAN 1/4 HP SHALL BE ON A SEPARATE BRANCH CIRCUIT SUPPLIED BY A MINIMUM NUMBER 12 AWG WIRE.
- VERIFY ELECTRICAL AND FUEL GAS REQUIREMENTS WITH MANUFACTURER'S SPECIFICATIONS.
- SMOKE ALARMS & CARBON DIOXIDE ALARMS SHALL BE INSTALLED IN ALL BEDROOMS, ON THE CEILING OR WALL OUTSIDE OF EACH BEDROOM AND IN EVERY STORY. BACKUP AND LOW BATTERY SIGNAL.
- BATHROOMS SHALL BE MECHANICALLY VENTILATED OR PROVIDED WITH A WINDOW AREA OF NOT LESS THAN 3 SF AT LEAST 50% OPENABLE.
- WHERE MORE THAN ONE SMOKE ALARM IS REQUIRED TO BE INSTALLED, IT SHALL BE INTERCONNECTED IN SUCH A MANNER SO THAT THE ACTIVATION OF ONE ALARM WILL ACTIVATE ALL THE ALARMS.
- EXHAUST FANS ARE TO HAVE A MIN. CAPACITY OF 50 CFM.
- INSTALL ON THE COLD WATER SUPPLY PIPE AT THE TOP OF THE WATER HEATER A CAPPED "T" FITTING TO PLUMB FOR FUTURE SOLAR WATER HEATING.
- DECORATIVE CHIMNEY CAPS MUST BE LISTED ASSEMBLY.
- ALL UTILITIES SERVING THE SITE SHALL BE INSTALLED PER CITY OF MANHATTAN BEACH THE STANDARD UNDERGROUND CONNECTION.
- ALL ELECTRICAL, TELEPHONE, CABLE TV, AND SIMILAR SERVICE WIRES AND CABLES SHALL BE INSTALLED UNDERGROUND FOR ALL NEW BUILDINGS. UNDERGROUND FUTURE SUB-OUT IS REQUIRED IF MODEL IS OVER 50%.
- OBTAIN SATISFACTORY DISTRICT APPROVAL FOR ANY NEW SEWER CONNECTION.
- FENCE WALL/HANDRAIL AND HEDGE HEIGHTS, AS MEASURED FROM THE LOWEST FINISHED GRADE ADJACENT TO EACH SECTION OF THESE STRUCTURES, MAY BE A MAXIMUM OF: 42" IN THE FRONT YARD SETBACK, AND 6' AT ALL OTHER LOCATIONS ON SITE (3' IN DRIVEWAY VISIBILITY TRIANGLE AND IN TRAFFIC VISION CLEARANCE TRIANGLE).

Palm 4

1154 N Rowell Ave. Manhattan Beach, CA 90266

Project Info

Project Description:
4 Townhouse Units (New)
See A2.5 for area breakdown

Legal Description:
80,10 FT OF LOTS 13 & 14, BLOCK 60
TRACT NO. 141
M.B. 13-178-179
APN: 41166-009-012

Zoning & Occupancy:
RH Area District II
Coastal Exempt

Construction:
Type V-B
Fire Sprinklers throughout

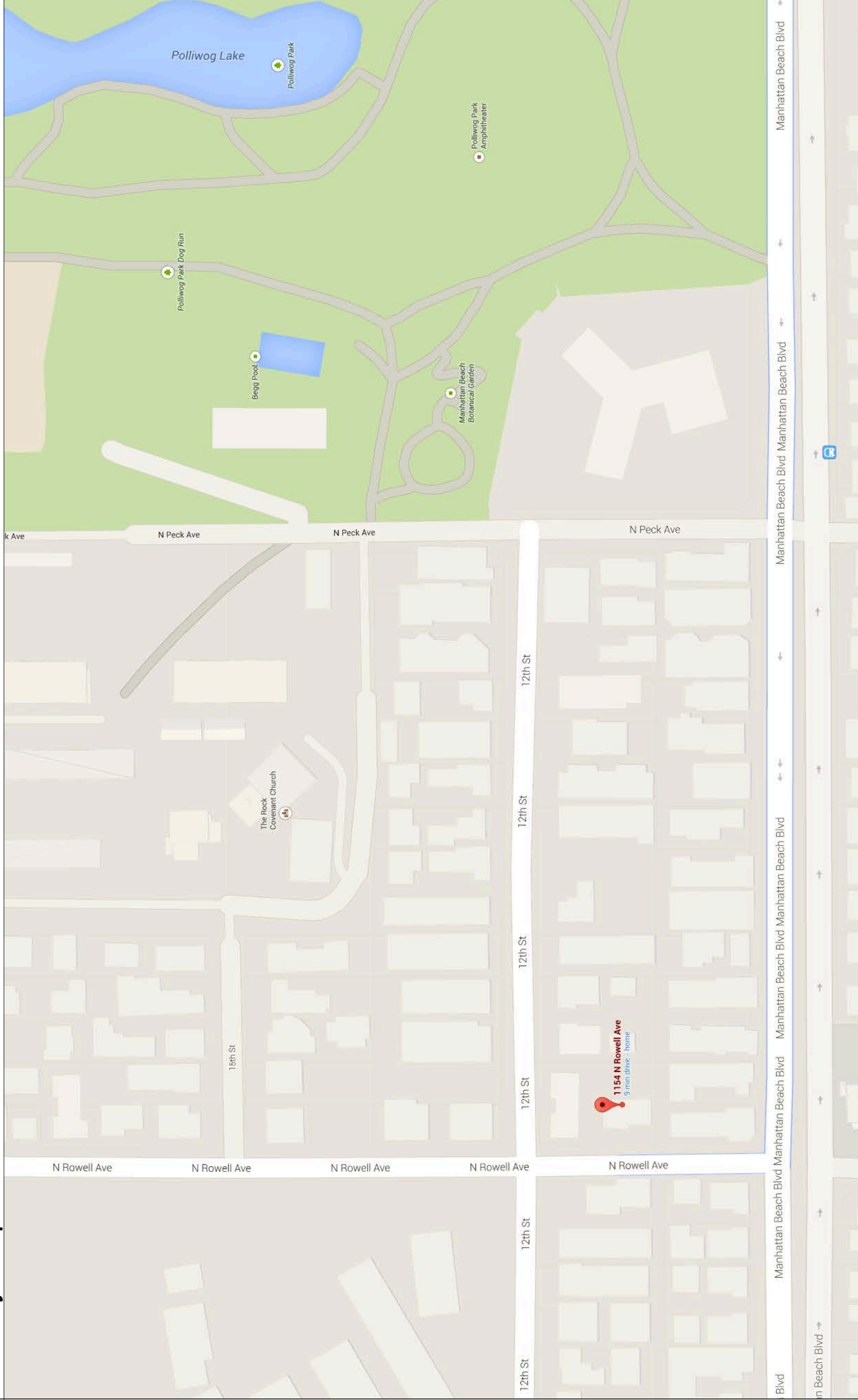
Code Analysis:
2013 California Building Code
2013 California Plumbing Code
2013 California Mechanical Code
2013 California Electrical Code
2013 California Energy Standards

Client:
Jeff Bowers & Bryan Murphy
1154 N Rowell Ave
Manhattan Beach, CA 90266

Design by:
Robert Sweet
ras-a, inc.
2507 190th St.
Redondo Beach, CA 90278
tel 310 937 1760

Structural Engineer:
T.B.D.

Vicinity Map



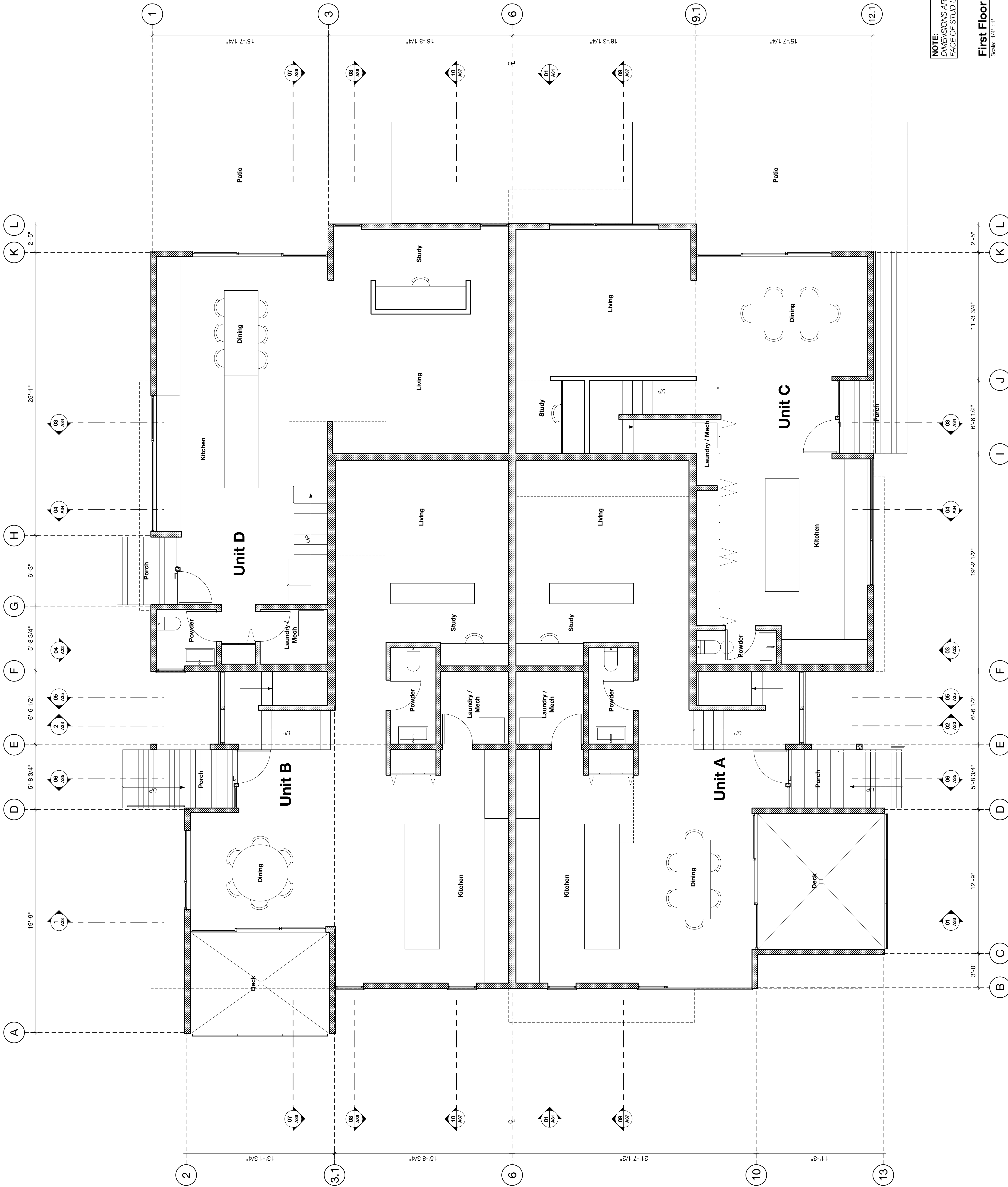
Perspective



Sheet Index

- A0 Cover / Project Info
- A0.1 Diagrams
- A1.1 Site Plan / Parking Plan
- A2.1 First Floor Plan
- A2.2 Second Floor Plan
- A2.3 Roof Plan (lower)
- A2.4 Roof Plan (upper)
- A3.1 Exterior Elevations
- A3.2 Area Breakdown
- A3.3 Building Sections
- A3.4 Building Sections
- A3.5 Building Sections
- A3.6 Building Sections
- A3.7 Building Sections

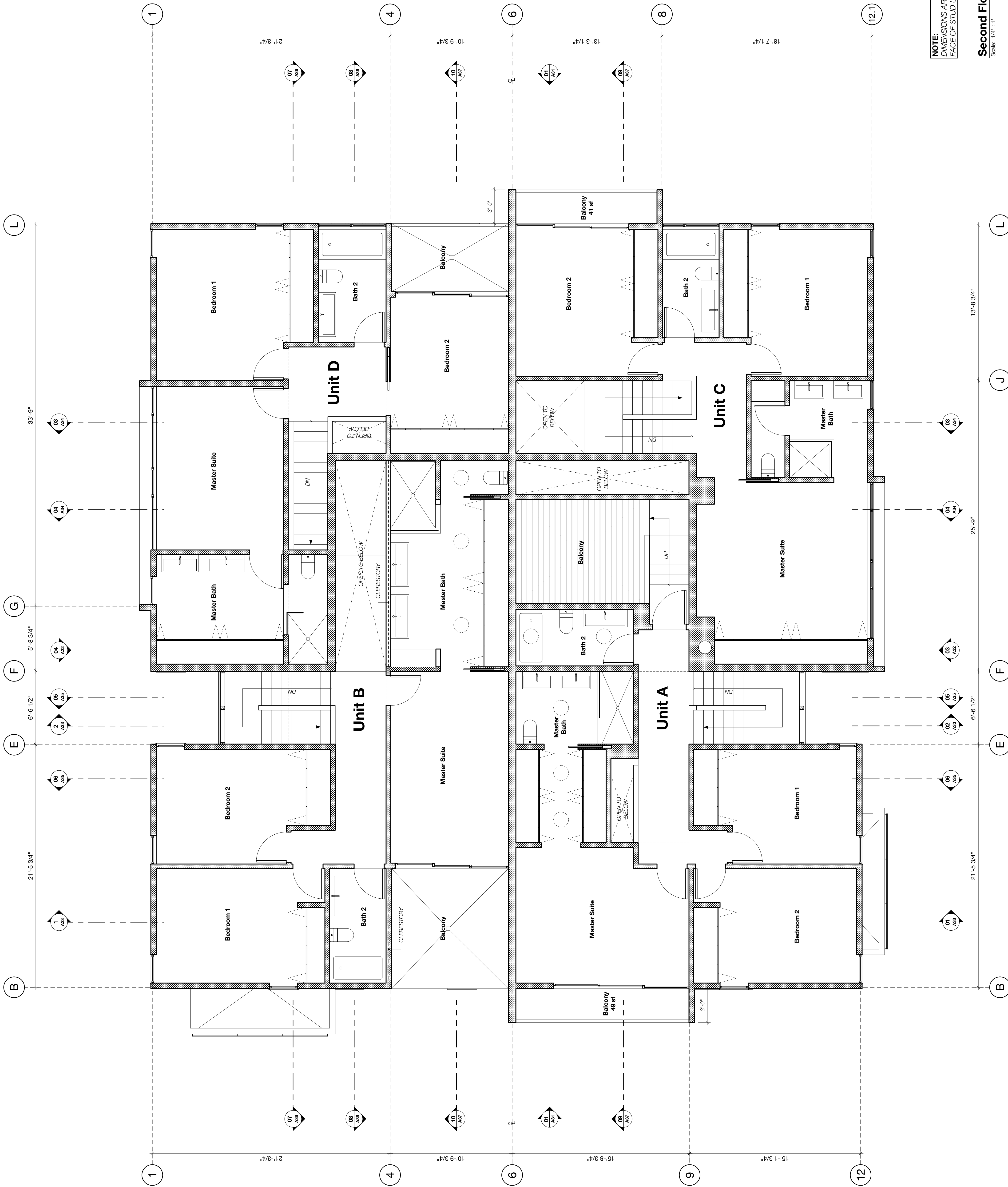
ATTACHMENT D
PC MTG 1-28-15



NOTE:
DIMENSIONS ARE TO
FACE OF STUD U.N.O.

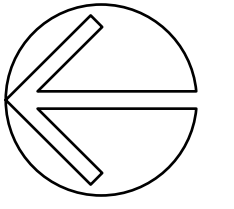
01

First Floor
Scale: 1/4" = 1'



NOTE:
DIMENSIONS ARE TO
FACE OF STUD U.N.O.

Second Floor
Scale: 1/4" = 1'

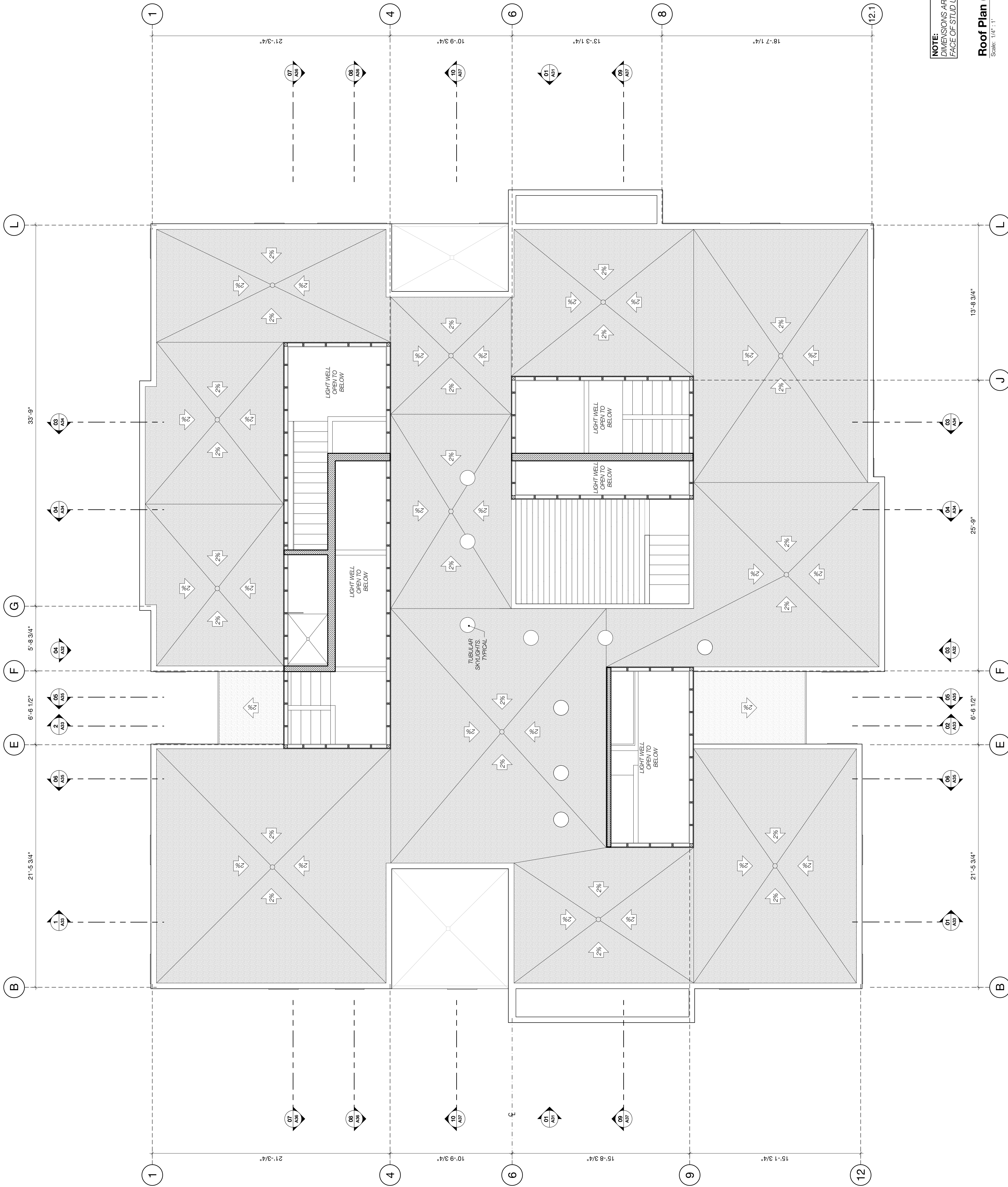


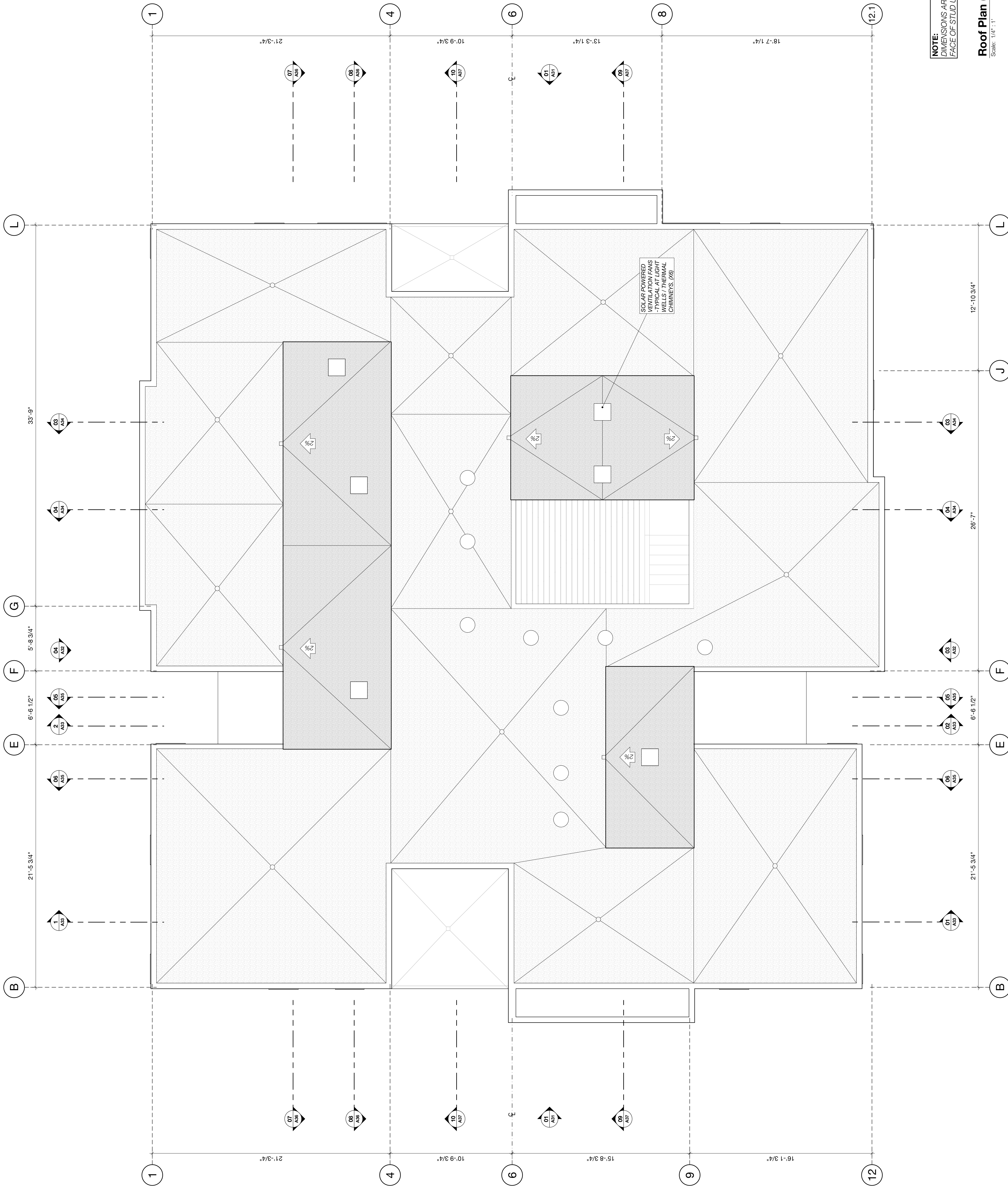
03

Roof Plan (lower)

Scale: 1/4" = 1'

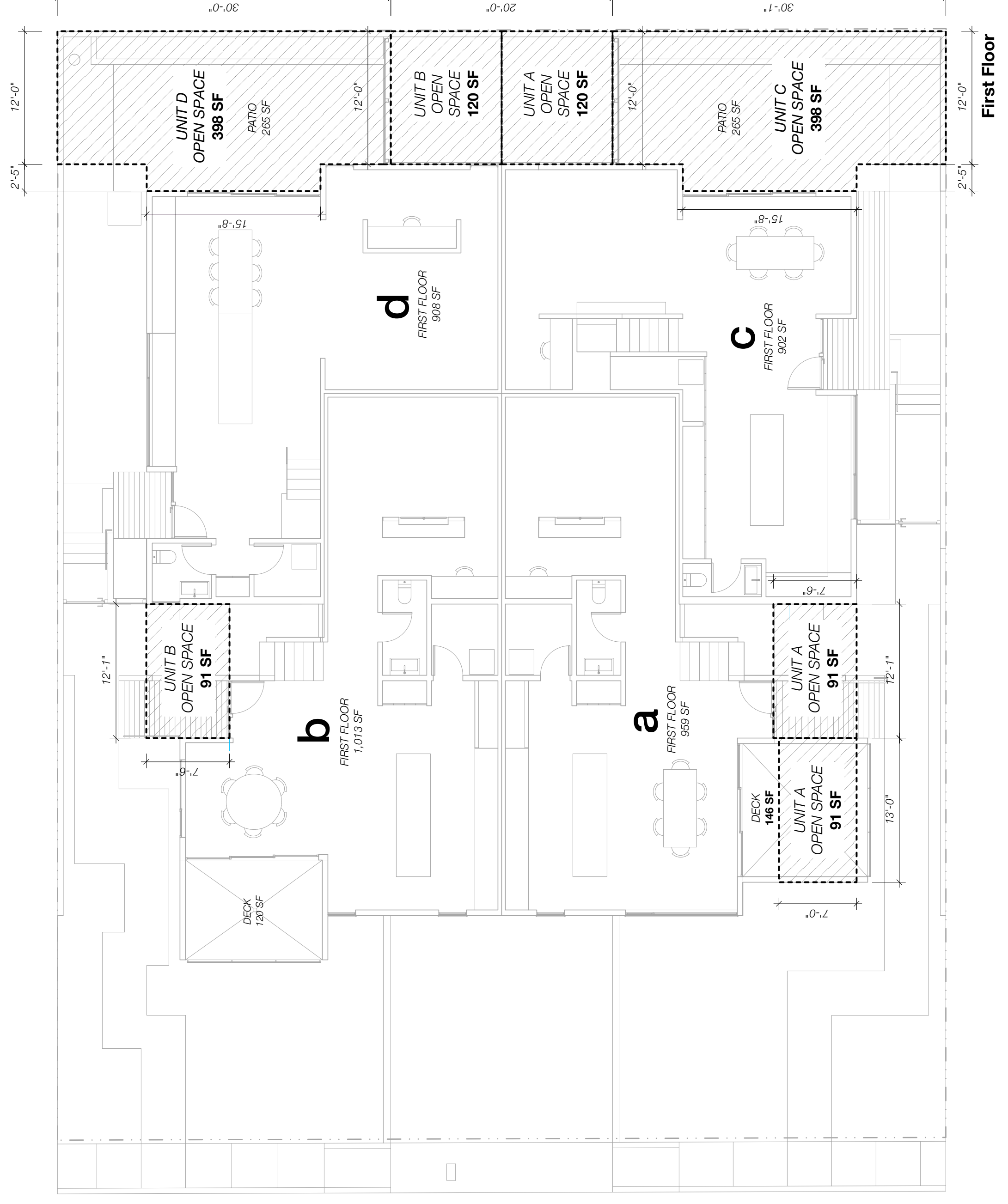
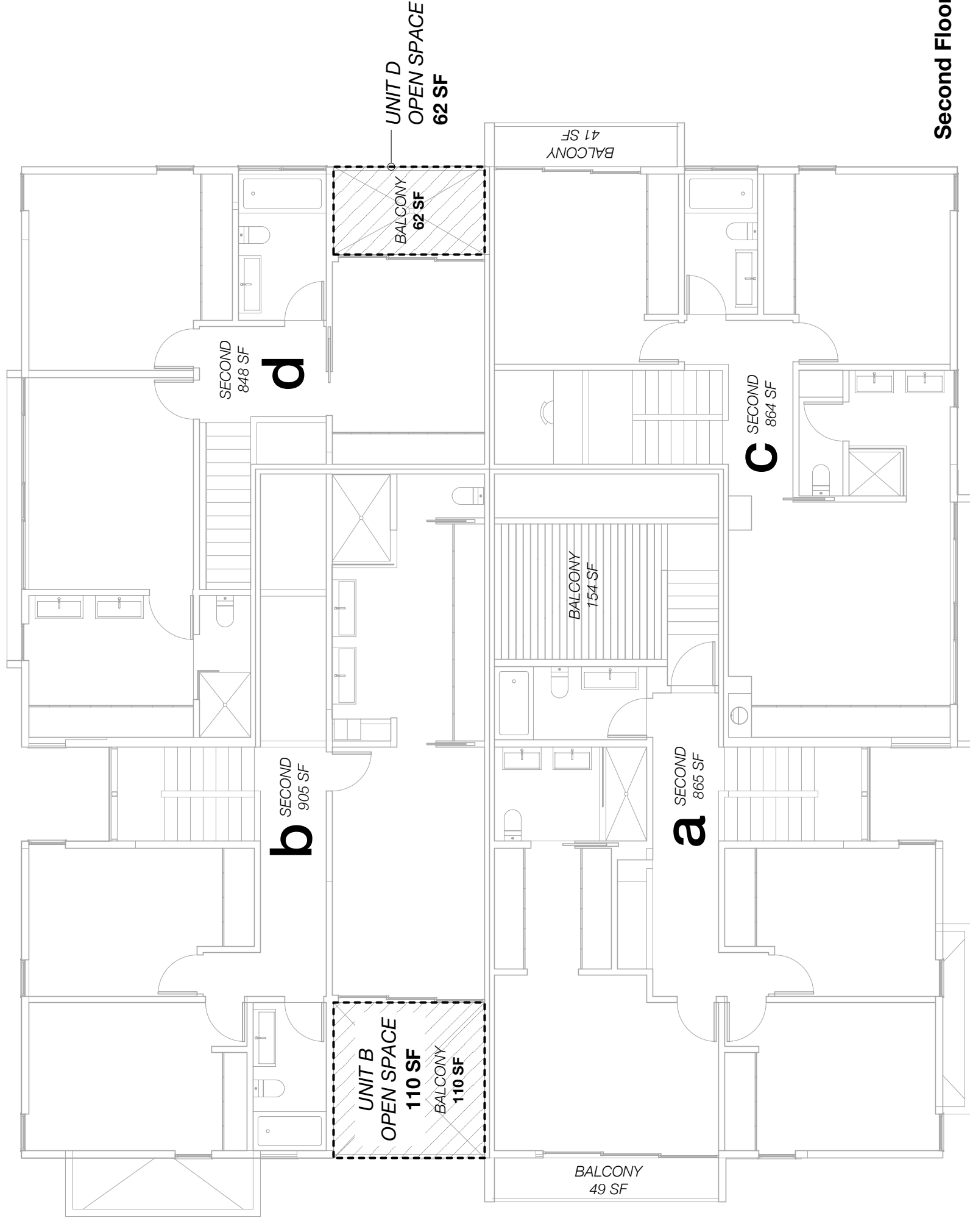
NOTE:
DIMENSIONS ARE TO
FACE OF STUD U.N.O.





NOTE:
DIMENSIONS ARE TO
FACE OF STUD U.N.O.

04
Roof Plan (upper)
Scale: 1/4" = 1'



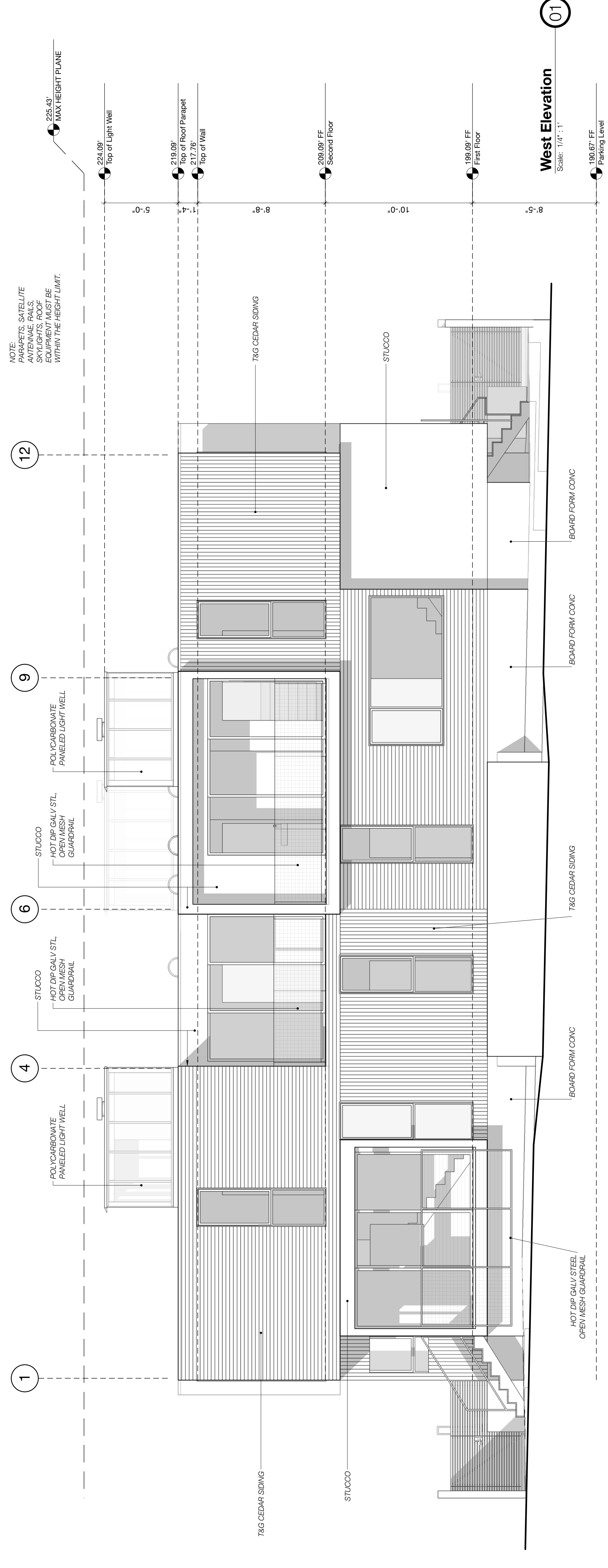
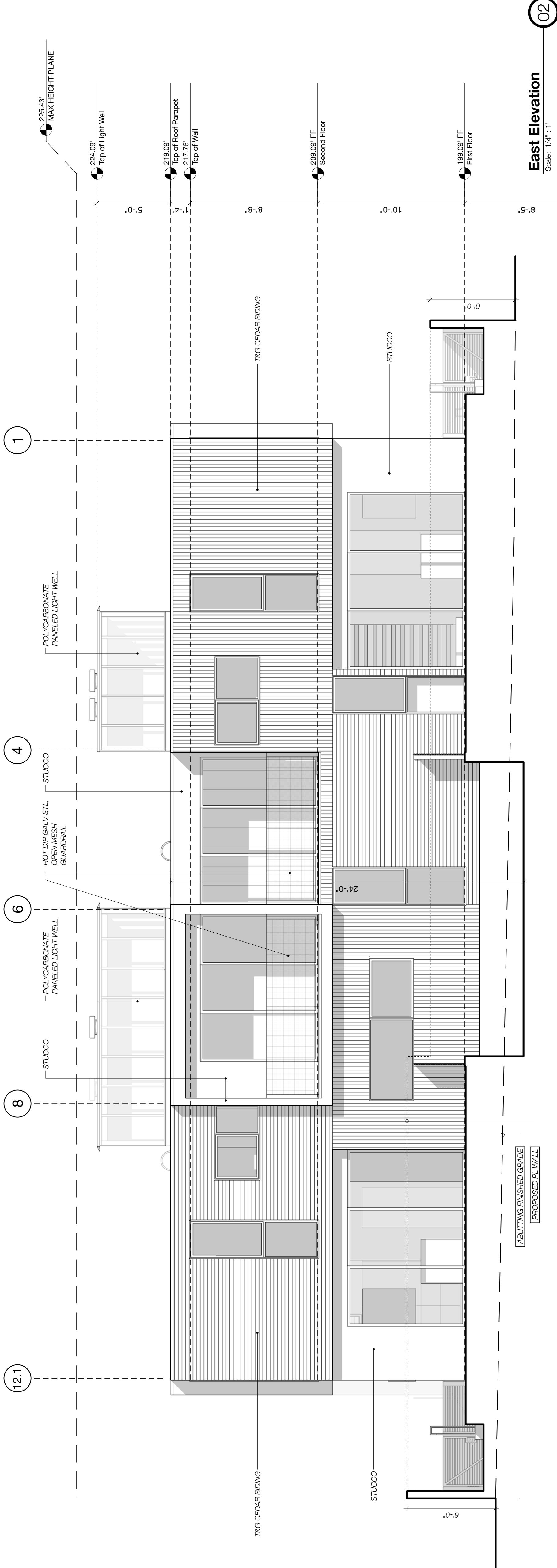
UNIT b		
B.F.A.	sqft	sqft
Garage	NA	NA
First Floor	1013	908
Second Floor	905	848
total	1,918	1,756
Decks & Balconies		
First Floor	120	265
Second Floor	110	62
total	230	327
OPEN SPACE	sqft	sqft
required = 1,918 x .15 =	288	263
total	322	460

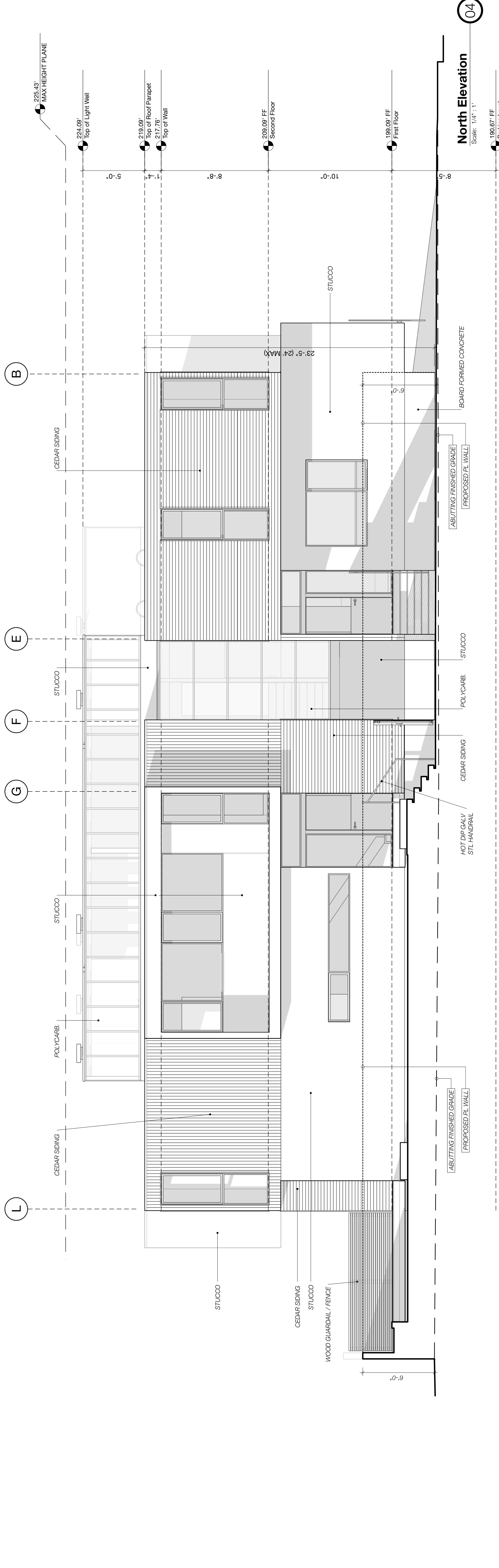
UNIT c		
B.F.A.	sqft	sqft
Garage	NA	NA
First Floor	959	902
Second Floor	865	864
total	1,824	1,766
Decks & Balconies		
First Floor	146	265
Second Floor	203	41
total	349	306
OPEN SPACE	sqft	sqft
required = 1,824 x .15 =	274	263
proposed	303	389

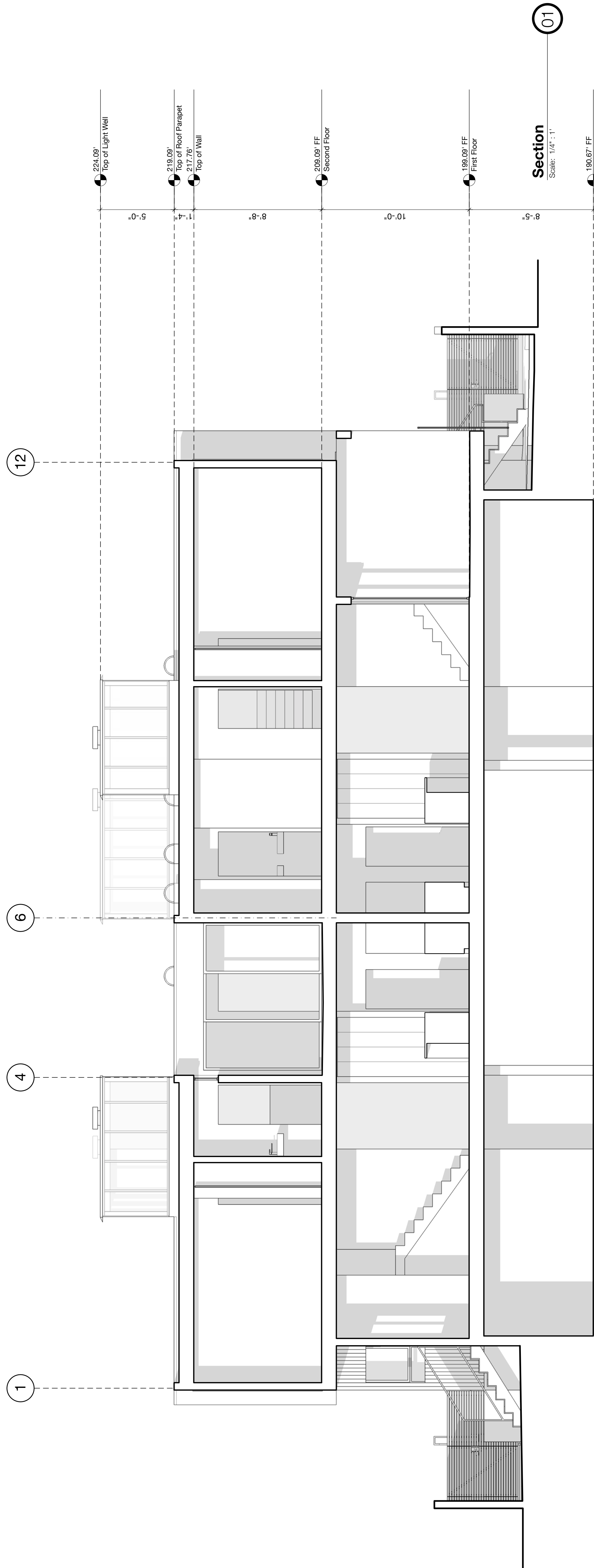
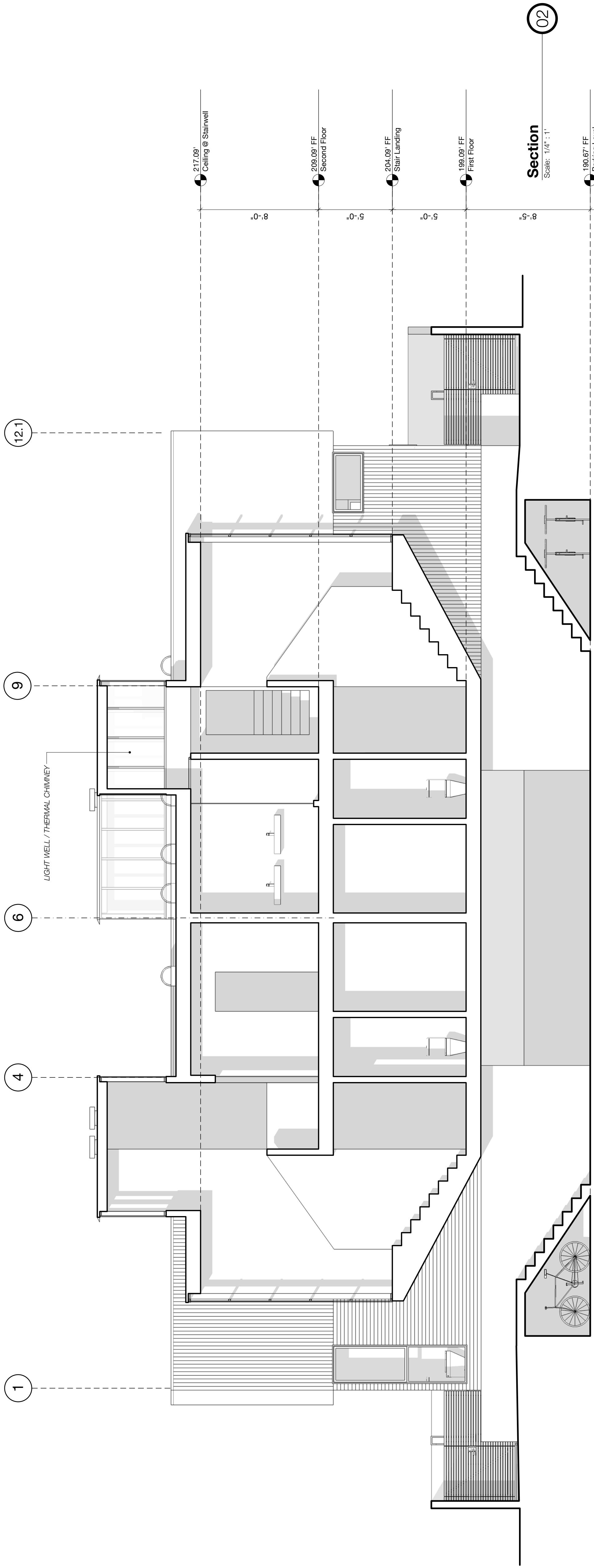
LOT AREA :	8,008 SF
TOTAL BFA :	7,264 SF

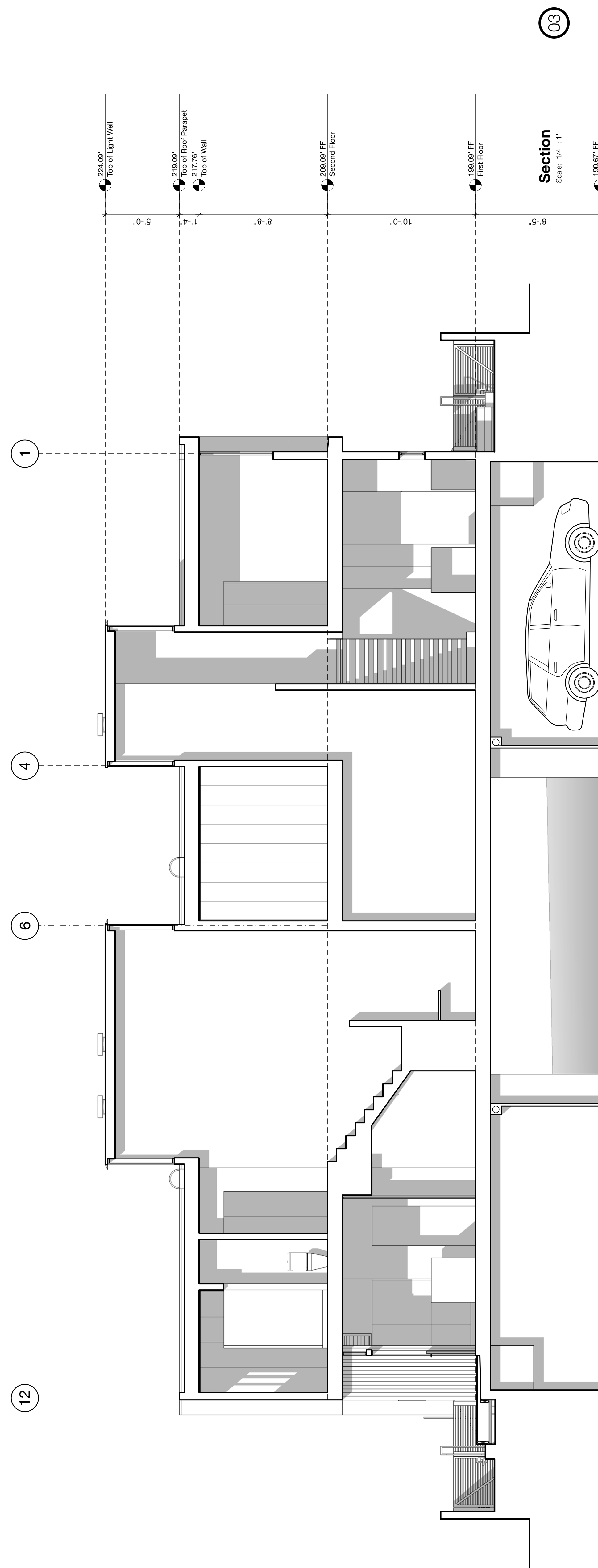
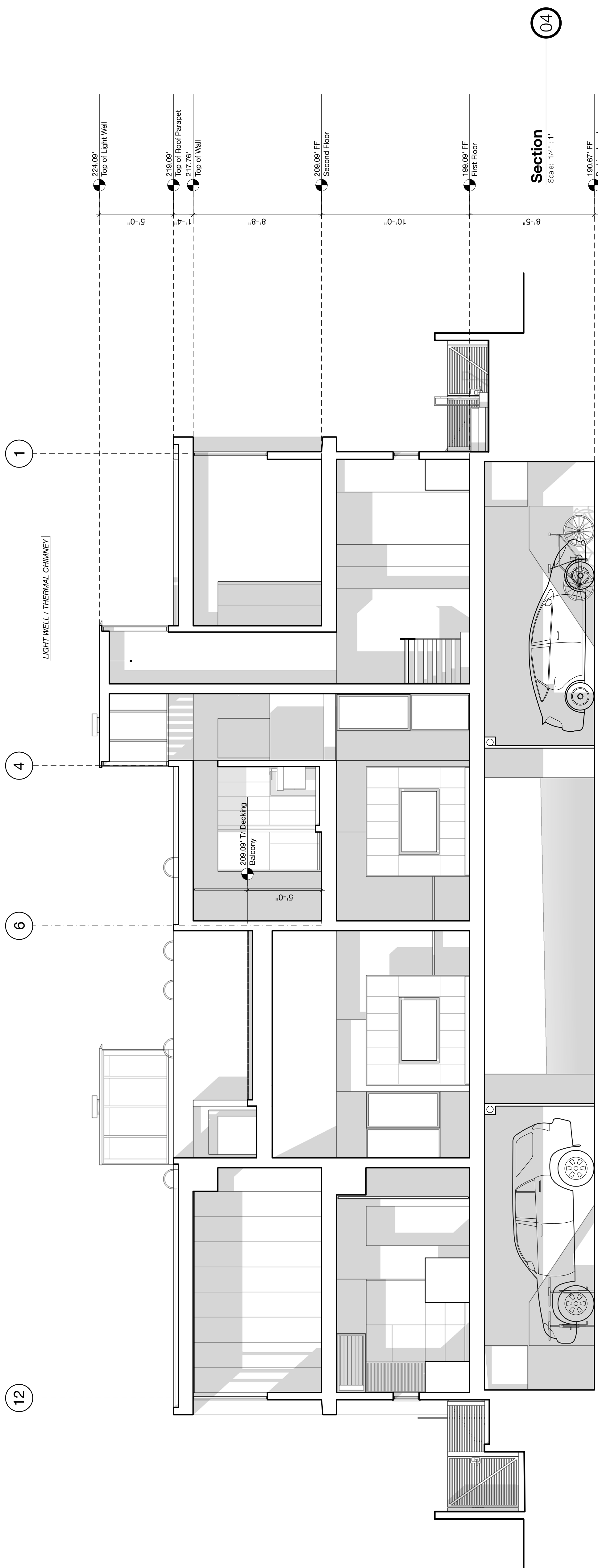
Floor Area / Open Space Diagram
Scale: 1/8" = 1'

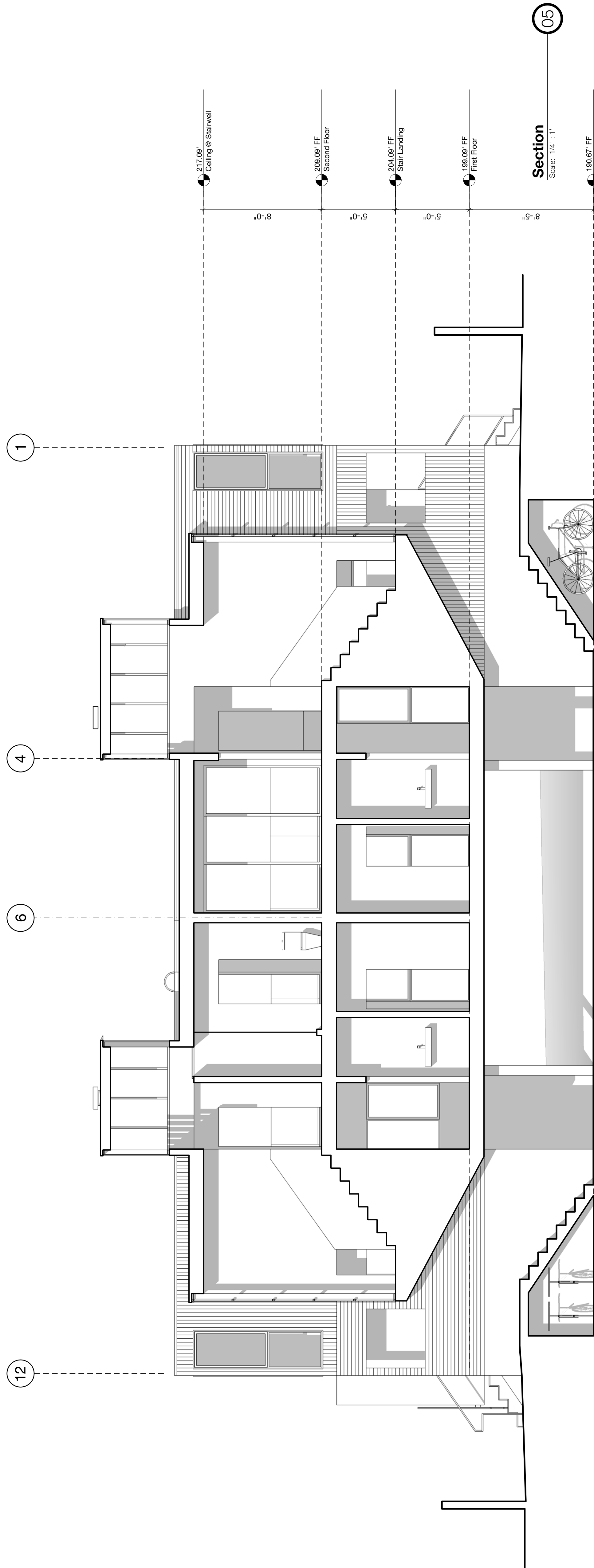
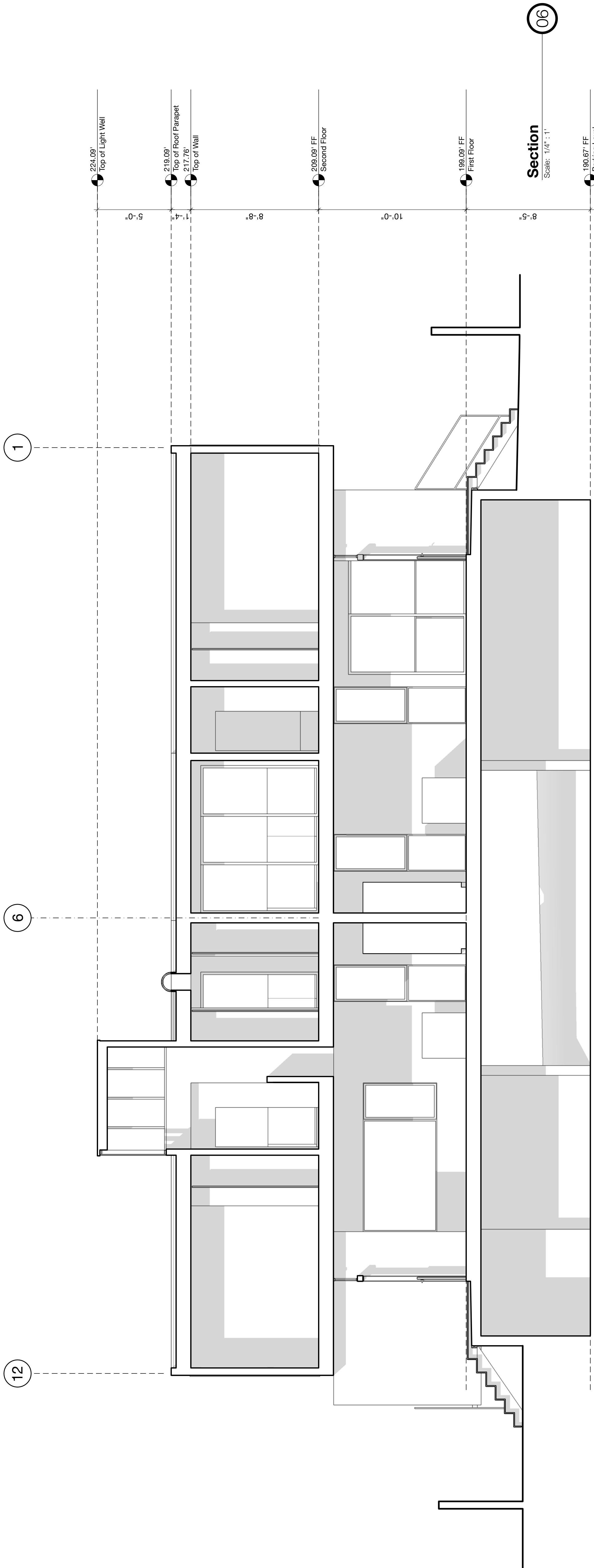
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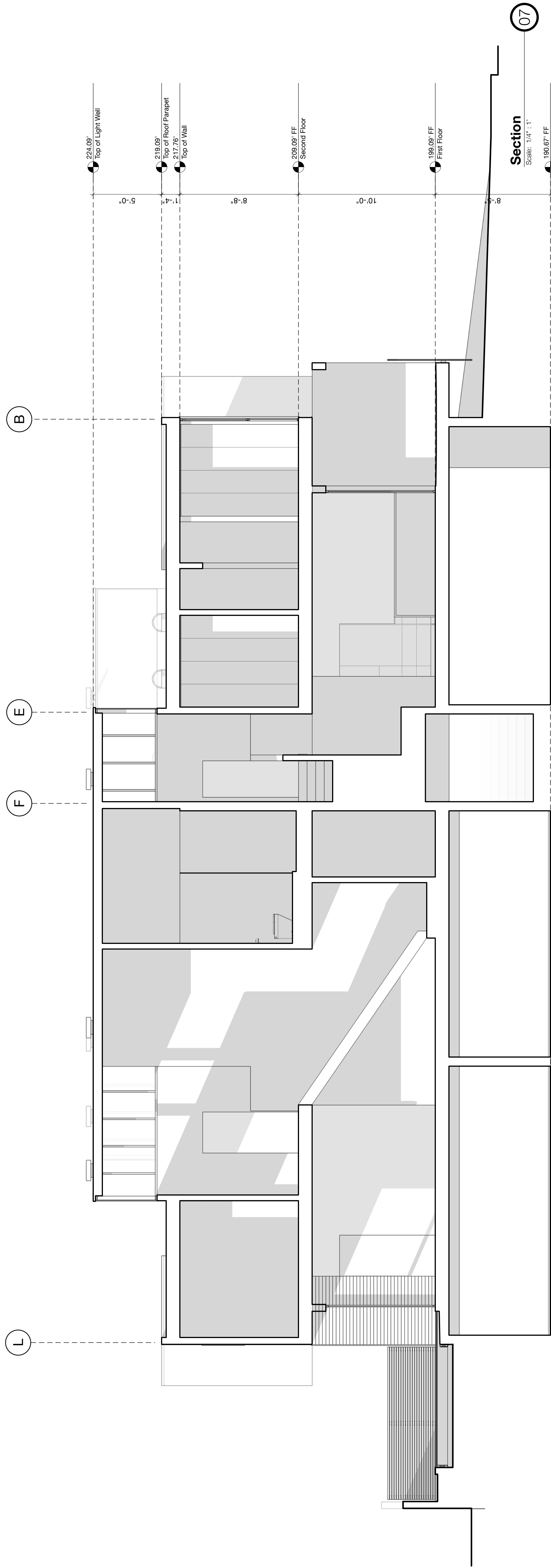
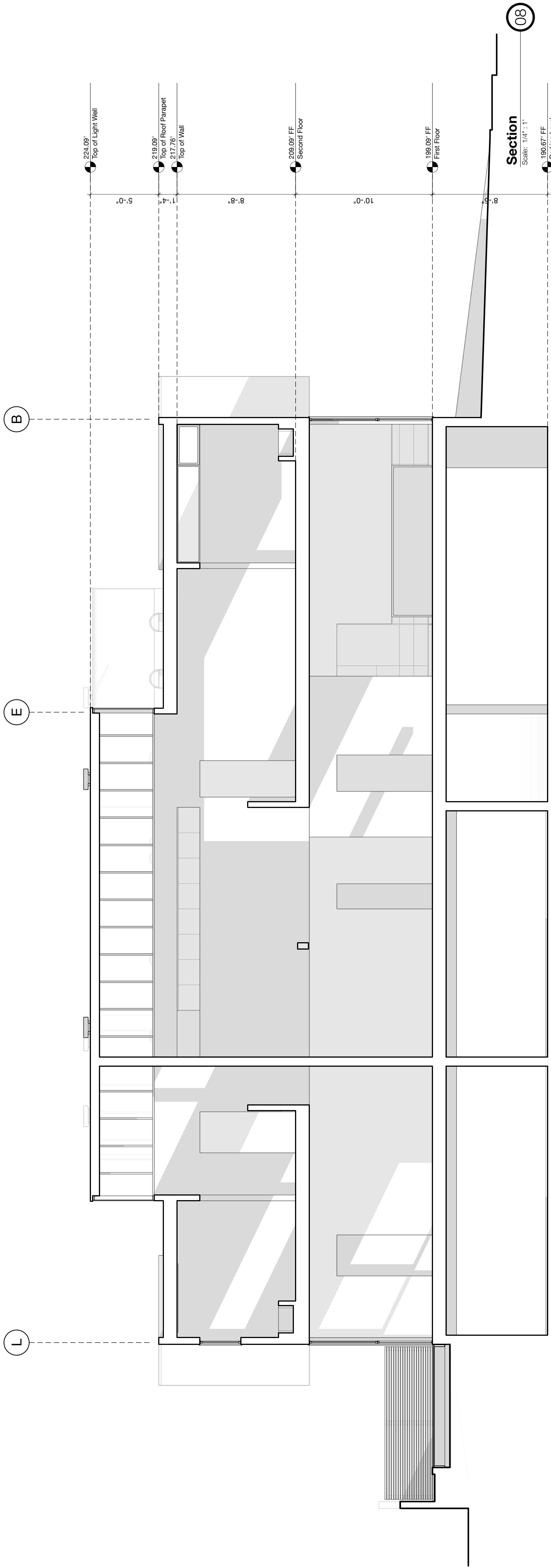


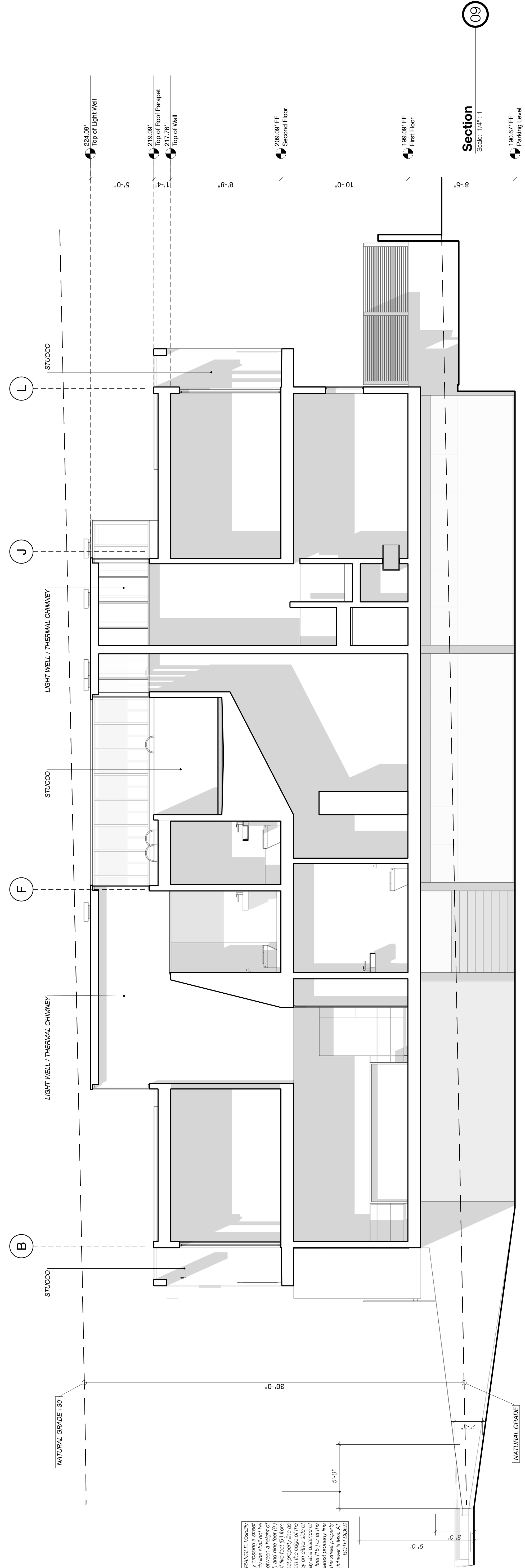
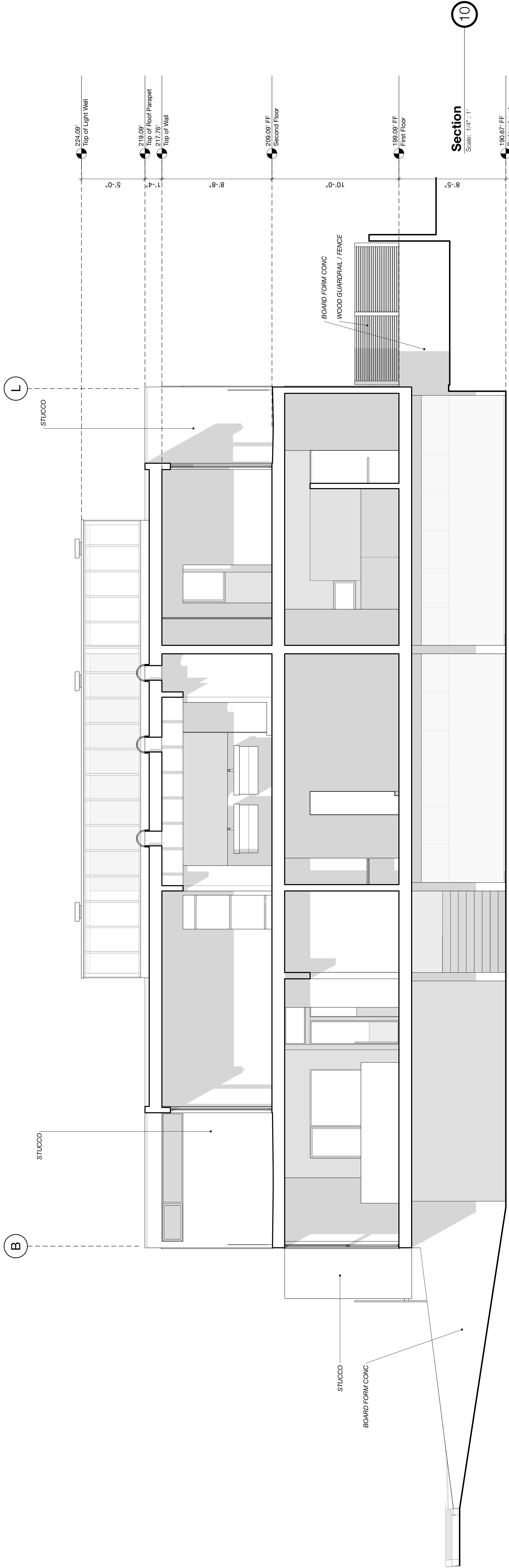












VISIBILITY TRIANGLE Visibility of a driveway crossing a street property line shall not be blocked by any structure for a depth of five feet (5') from the street property line to the right-of-way on either side of the driveway at a distance of fifteen feet (15') from the intersection of the street property line, whichever is less. AT BOTH SIDES

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Agenda Date: 2/17/2015

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Tony Olmos, Director of Public Works
Raul Saenz, Utilities Manager

SUBJECT:

Report on Emergency Repairs for Booster No. 3 of Peck Reservoir for the Amount of \$49,988 (Public Works Director Olmos).

RECEIVE AND FILE

RECOMMENDATION:

Staff recommends that City Council receive and file this report regarding emergency repairs to booster No. 3 of Peck Reservoir in the amount of \$49,988 (Attachment 1).

FISCAL IMPLICATIONS:

While funds were not allocated in the Fiscal Year 2014/2015 Budget for this emergency repair work, funds in the amount of \$49,988 were available in the Public Works Water Pumping Operating Budget to perform the work.

BACKGROUND:

On Friday, December 12, 2014, the Peck Reservoir Booster No. 3 motor/pump went to electrical ground and failed. Given the demands of always being able to supply the City with a reliable water supply for consumption and fire suppression purposes; the threat to property and public safety in the event of a water outage; and the need for a specialized workforce and equipment not available internally, staff mobilized to single source for the emergency repairs.

Based upon their ability to rapidly acquire the materials needed, provide the skilled labor force required to perform the work and to quickly mobilize to perform the work, General Pump Company was contracted on an emergency, single source basis. The work included replacement of the submersible 125 horsepower motor and rebuilding of the pump, including bowl assembly, shafts, bearings and columns at a cost of \$49,988.

DISCUSSION:

This action and expenditures were incurred in accordance with Section 4 of RESOLUTION NO. 12-6421 - City Manager Emergency Authority, which delegates to the City Manager the authority to order any action specified in Public Contract Code Section 22050(a)(1) and to expend funds without complying with state competitive bidding requirements in relation to any emergency, followed by a report of such action and expenditures to the City Council.

Staff is satisfied that the charges by General Pump Company, Inc. to perform the emergency booster pump repairs are fair, reasonable and consistent with industry standards. The labor rates are consistent with prevailing wages under the Engineering Contractor's Association, to which General Pump Company, Inc. are a signatory.

Attachment:

1. General Pump Company Purchase Order

CITY OF MANHATTAN BEACH

1400 HIGHLAND AVENUE
 MANHATTAN BEACH, CALIFORNIA 90266
 TELEPHONE (310) 802-5568

BILLING: INVOICES IN DUPLICATE TO SAME ADDRESS ABOVE, ATTENTION: ACCOUNTS PAYABLE

PURCHASE ORDER

PURCHASE ORDER NUMBER

18-08686

THIS NUMBER MUST APPEAR ON ALL INVOICES, SHIPPING DOCUMENTS AND PACKAGES.

Page 1

THIS ORDER IS SUBJECT TO CONDITIONS ON REVERSE SIDE

S U P P L I E R	28246
	GENERAL PUMP CO INC
	159 NORTH ACACIA ST
	SAN DIMAS, CA 91773

S H I P T O	GENERAL SERVICES WAREHOUSE
	3621 BELL AVE
	MANHATTAN BEACH, CA 90266

TERMS A/P Net 30	F.O.B./PREPAID Destination	SHIP VIA	QUOTED BY/DATE Mike Bodart	REQUIRED BY
---------------------	-------------------------------	----------	-------------------------------	-------------

ITEM	QUANTITY	UNIT	DESCRIPTION/ ACCOUNT NO.	UNIT PRICE	AMOUNT
1	1.00	LOT	Per Quote Dated: 12/15/2014 PECK RESERVOIR BOOSTER 4 Parts: Inverter duty Telsa (4-Pole submersible motor), column pipe, etc.	35,454.0000	35,454.00
2			Shop Labor (84hrs @ \$104/hr)		8,736.00
3			Field Labor: Install, perform setup, and test (10hrs @ \$309/hr)		3,306.00
4			Overtime (2hrs @ \$108/hr) Outside Service:		423.00
5			Electronic balance impellers		-2,222.76
6			Deduct per agreement Freight		1,010.00

E 501-18-231-6121	49,988.00
-------------------	-----------

Mark for Patrick Heichert				SUBTOTAL		46,706.24
ORDER DATE 12/22/2014	CONTACT HICKS, TIKNESHEA (310) 802-5568	DEPARTMENT AUTHORIZATION		SALES TAX		3,281.76
GROUP CODE thicks	FINANCE DIRECTOR	CITY MANAGER	RECEIVED BY	RECEIPT DATE	RECEIVING COMMENTS/ NO. OF PACKAGES	TOTAL
						49,988.00

REQ. NO.

VENDOR GENERAL PUMP CO INC

February 17, 2015
 City Council Meeting

AUTHORIZED BY: _____

DEPARTMENT COPY

VALID ONLY WHEN SIGNED BY PURCHASING AGENT

Page 415 of 425



159 N. ACACIA STREET · SAN DIMAS, CA 91773
PHONE: (909) 599-9606 · FAX: (909) 599-6238

WELL & PUMP SERVICE SINCE 1952

Lic. #496765

December 15, 2014

City of Manhattan Beach
1400 Highland Ave
Manhattan Beach, Ca. 90266
Attn: Ms Tikneshea Hicks

Subject: Peck Reservoir Booster 1 Emergency Repair

Dear Tikneshea,

General Pump Company has completed the following tasks as of this morning:

- Engineering has reviewed the salvaged components from Boosters 1 and 4.
- Inspect and measure tolerances of disassembled components.
- Clean and prep parts for reassembly
- Review engineering for Tesla 150HP motor with Tesla engineers
- Prepare paperwork for Tesla motor order

Our schedule to assemble and install the pump assembly will follow, based on current shipping schedules of the manufacturer, the week of January 5th.

I hope this schedule will help provide you a better idea of when this unit can be placed back in service. Please don't hesitate to call us with any further questions you may have.

Sincere Thanks

GENERAL PUMP COMPANY, INC.

Mark Haas

Mark Haas
Project Manager



159 N. ACACIA STREET * SAN DIMAS, CA 91773
PHONE: (909) 599-9606 * FAX: (909) 599-6238

CAMARILLO, CA 93010 * PHONE: (805) 482-1215
www.genpump.com

WELL & PUMP SERVICE SINCE 1952
Serving Southern California and Central Coast

Lic. #496765

December 15, 2014

Via Email

City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, California 90266
Attn: Patrick Heichert

Subject: Peck Reservoir Booster 3

General Pump Company has inspected the above referenced Boosters 1 and 4 salvaged pump parts. Listed below is the estimated cost to repair and assemble Booster 3.

Engineering Inspection

- Motor megs dead to ground - 0 meg-ohms at 500 volts. Measured 3/8 motor shaft lateral.
- Pump bowl is in fair condition.
- Impeller and bowl hydraulic ring clearances exhibit normal wear and are worn over factory specifications..
- Bowl bearings are combination bronze and rubber. Bowl shaft is in fair condition.
- Minor plating is visible throughout the pump bowl.
- The surface plate is in good condition.
- One impeller has a dime size chunk missing from hitting something hard in the water during operation and we will utilize Booster 1 impeller to replace.
- Motor cooling shroud is at the bottom of the sump for Booster 4, therefore, we will repair and use the shroud from Booster 1.

Cost

Shop Labor

- | | |
|---|-------|
| • Repair and assemble cooling sleeve to pump. | 4 Hrs |
| • Receive and inspect new materials, quality assurance | 4 Hrs |
| • Remove impeller and bowl hydraulic seal rings | 4 Hrs |
| • Machine bowls for hydraulic wear rings | 4 Hrs |
| • Machine impellers for hydraulic seal rings | 4 Hrs |
| • Machine bowl and impeller dual bronze hydraulic rings | 8 Hrs |
| • Remove and replace bowl bearings, install hydraulic rings | 4 Hrs |
| • Machine polish bowl shaft and balance | 4 Hrs |
| • Clean ring and key assemblies | 1 Hrs |



Shop Labor (Continued)

- Clean Associated pump bowl and flow inducer sleeve bracket, assemble pump 14 Hrs
- Assemble pump bowl to motor, prepare for installation. 8 Hrs
- Splice cable, motor leads 8 Hrs
- Remove and install one (1) column coupling 2 Hrs
- Pressure wash new pipe, brush threads and buck-on couplings, handling 4 Hrs
- Pressure wash and paint surface plate prepare for installation 3 Hrs
- Receive and prep equipment quality assurance and handling / load out 8 Hrs

84 Hrs. @ \$104/Hr. \$ 8,736.00

Materials

- Bronze bearings \$ 540.00
- Bronze impeller hydraulic seal ring 960.00
- Bronze bowl hydraulic wear ring 965.00
- Pump / motor drive coupling, key and lock screw assembly 919.00
- 4 wire splice kit 245.00
- Submersible power cable 245.00
- *Inverter duty* Tesla 125HP, 4-Pole Submersible Motor 28,968.00
- Column pipe 1,465.00
- Column coupling 235.00
- Stainless steel bandit, bandit clamps and cable pads 212.00
- Miscellaneous consumables 185.00
- Miscellaneous inbound freight and handling 1,010.00
- Replacement SS bowl bolting, ring and key hardware 179.00
- 12" 150# NBG-KIT 164.00
- Base Gasket 172.00
- Sales tax @ 9.00% 3,281.76 \$39,745.76

Outside Service – Electronic balance impellers. \$ 423.00

Field Labor

- Install; perform startup; test – 10 Hrs. @ \$309/Hr. 3,090.00
- Overtime – 2 Hrs. @ \$108/Hr. 216.00 \$ 3,306.00

Subtotal \$52,210.76
Deduct \$2,222.76 per our agreement (2,222.76)

Total Labor and Materials \$49,988.00



Mr. Patrick Heichert
City of Manhattan Beach
December 15, 2014
Page -3-

Should you have any questions or need additional information regarding the above summary and associated cost, please do not hesitate to contact us.

Thank you.

Sincerely,

GENERAL PUMP COMPANY, INC.

Michael Bodart

Michael Bodart
Director of Engineering

Agenda Date: 2/17/2015

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Liza Tamura, City Clerk

SUBJECT:

Commission Minutes:

This Item Contains Action Minutes of City Council Subcommittees and Other City Commissions and Committees which are Presented to be Received and Filed by the City Council. Staff Recommends that the City Council, by Motion, Take Action to Receive and File the Action Minutes of the:

- a) Parking and Public Improvements Commission Meeting of January 22, 2015
(Community Development Director Lundstedt)
- b) Planning Commission Meeting of January 28, 2015
(Community Development Director Lundstedt)

RECEIVE AND FILE

RECOMMENDATION:

Staff recommends that the City Council, by motion, take action to receive and file the minutes of the City Council subcommittees, City commissions, and other committees.

Attachments:

- 1. Parking and Public Improvements Commission Action Minutes of January 22, 2015
- 2. Planning Commission Action Minutes of January 28, 2015

PARKING AND PUBLIC IMPROVEMENTS COMMISSION ACTION MINUTES

January 22, 2015

6:30 P.M.

- A. Call Meeting to Order
- B. Roll Call Present: Apostol, Fournier, King, Lipps and Chair Nicholson.
Absent: None.
- C. Approval of Minutes
None
- D. Audience Participation
Antoinette Gill stated her opinion that the newly installed yellow flashing arrow that replaced the green arrow-green ball signal operation at Manhattan Beach Boulevard and Redondo Avenue was confusing to drivers.
- E. General Business
- 01/22/15-1 Consideration of an Encroachment Permit for a Gas Company Communication Pole on 8th Street East of Rowell Avenue**
The Commission held a public hearing, took public testimony and approved a motion to recommend approval of an Encroachment Permit for a Southern California Gas Company Communication Pole on the south side of 8th Street approximately 200 feet east of Rowell Avenue by the City Council. (5-0)
- 01/22/15-2 Request for All-Way Stop Signs at 8th Street and John Street**
The Commission held a public meeting, took public testimony and approved a motion to recommend that the City Council adopt a resolution to install stop signs in all directions at the intersection of 8th Street and John Street. (4-1 Fournier)
- 01/22/15-3 Request for All Way Stop Signs at John Street and 9th Street**
The Commission held a public meeting, took public testimony and approved a motion to recommend that the City Council adopt a resolution to install stop signs in all directions at the intersection of John Street and 9th Street. (3-2 Fournier, King)
- 01/22/15-4 Request for All-Way Stop Signs at Valley Drive/Oak Avenue/35th Street**
The Commission held a public meeting, took public testimony and approved a motion to recommend that the City Council adopt a resolution to install stop signs in all directions at the intersection of Valley Drive/Oak Avenue/35th Street, including temporary realignment of the south and west approaches on a trial basis for 6 months or less. (4-1 King)
- F. Other Items
- 01/22/15-5 Monthly Revenue and Expenditure Reports**
Received and Filed.
- 01/22/15-6 Commission Items**
Fournier stated his dissatisfaction with the Mobility Plan Draft Report, particularly the absence of real feedback and long timelines. Lipps suggested

that members talk to the City Manager about their concerns.

01/22/15-7 *Staff Follow Up Items*

Traffic Engineer Zandvliet encouraged the Commissioners to attend the next Traffic Commissioner's Workshop to be held on March 14, 2015.

H. Adjournment to February 26, 2015.

**CITY OF MANHATTAN BEACH
PLANNING COMMISSION MEETING ACTION MINUTES**

January 28, 2015

Council Chambers – 1400 Highland Avenue

6:30 P.M.

Final Decisions Made Tonight Will be Scheduled for City Council Review on February 17, 2015
(Unless otherwise stated at the meeting)

1. CALL MEETING TO ORDER **6:31 P.M.**
2. PLEDGE TO FLAG
3. ROLL CALL **CHAIRMAN ORTMANN, CONAWAY,
BORDOKAS, HERSMAN; ANDREANI ABSENT**
4. AUDIENCE PARTICIPATION **(3-Minute Limitation) NONE**
The public may address the Commission regarding any item of City business not on the agenda.
5. APPROVAL OF MINUTES

01/28/15-1. Regular meeting – December 10, 2014 **APPROVED WITH CORRECTIONS
(3:0;1-CONAWAY ABSTAINED)**
6. PUBLIC HEARING

01/28/15-2. Consideration of a Use Permit and Vesting Tentative Parcel Map No. 72860 for Proposed Construction of Four Residential Condominium Units Located at 1154 North Rowell Avenue (Bowers & Murphy)
CONDUCTED PUBLIC HEARING, ADOPTED DRAFT RESOLUTION WITH MODIFICATIONS AND APPROVED PROJECT WITH CONDITIONS (4:0)
7. DIRECTOR'S ITEMS
 - a. Introduced Mike Estrada, legal counsel from Richard, Watson & Gershon
 - b. Provided update on potential change to meeting start time
8. PLANNING COMMISSION ITEMS
 - a. Discussed Mobility Plan/Highland Avenue
 - b. Discussed next steps for ULI
9. TENTATIVE AGENDA February 11, 2015 **NONE**
10. ADJOURNMENT TO February 11, 2015 **MEETING ADJOURNED
AT 7:48 P.M.**

February 11, 2015 February 25, 2015 March 11, 2015 March 25, 2015

Meetings are broadcast live through Manhattan Beach Local Community Cable Channels (Time Warner Channel 8 and Verizon Channel 35), and Live Webcast via the City's website. Most meetings are rebroadcast at 12:00 PM and 8:30 PM on the Friday and Sunday following the Wednesday meeting on the Community Cable Channels and Live Webcast. If a City Council meeting falls in the same week as a Planning Commission meeting, the Commission meeting will be replayed the next week on Thursday at Noon. Meetings are archived at www.cityymb.info.