

City Council Regular Meeting

Regular Meeting

Tuesday, December 5, 2023

6:00 PM

City Council Chambers and Zoom



ELECTED OFFICIALS

Mayor Richard Montgomery

Mayor Pro Tem Joe Franklin

Councilmember Amy Howorth

Councilmember David Lesser

Councilmember Steve Napolitano

City Treasurer Tim Lilligren

EXECUTIVE TEAM

City Manager Bruce Moe

City Attorney Quinn Barrow

City Clerk Liza Tamura

Finance Director Steve Charelian

Human Resources Lisa Jenkins

Parks and Recreation Mark Leyman

Police Chief Rachel Johnson

Fire Chief Michael Lang

Community Development Director Talyn Mirzakhanian

Public Works Director Erick Lee

Information Technology Director Miguel Guardado

MISSION STATEMENT:

Our mission is to provide excellent municipal services, preserve our small beach town character, and enhance the quality of life for our residents, businesses and visitors.

DECEMBER 5, 2023

CITY COUNCIL MEETING AGENDA PACKET:

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MANHATTAN BEACH'S CITY COUNCIL WELCOMES YOU!

Meetings are broadcast live through Manhattan Beach Local Community Cable, Channel 8 (Spectrum), Channel 35 (Frontier),

live streaming via the City's website, and

via Zoom (Direct URL: <https://citymb-info.zoom.us/j/93376200363>, Meeting ID: 933 7620 0363).

The City continues to offer an opportunity to participate in City Council meetings via Zoom and in-person. City Council encourages the public to participate by submitting comments in advance of the meeting, no later than 12:00 PM, December 5, 2023 (the day of the meeting), via:

- 1) eComment at <http://www.manhattanbeach.gov/ecomment> or
- 2) Email to cityclerk@manhattanbeach.gov

All of your comments provided by the deadlines above will be available to the City Council and the public prior to the meeting.

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.manhattanbeach.gov, 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. The City also provides closed captioning of all its Regular City Council Meetings for the hearing impaired.

CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING

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, November 29, 2023, on the City's Website and on the bulletin boards of City Hall, Joslyn Community Center and Manhattan Heights.

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.

PLEASE NOTE THAT THE CITY COUNCIL MAY ACT ON ANY ITEM LISTED ON THE AGENDA.

A. CALL MEETING TO ORDER

B. PLEDGE TO THE FLAG

Ezra Handman, Robinson Elementary School

C. ROLL CALL

D. CEREMONIAL CALENDAR

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

This is the time for the City Council to:

- (a) notify the public of any changes to the agenda;*
- (b) remove items from the consent calendar for individual consideration; or*
- (c) rearrange the order of the agenda.*

MOTION TO APPROVE AGENDA AND WAIVE FULL READING

F. CITY COUNCIL AND COMMUNITY ORGANIZATION ANNOUNCEMENTS OF UPCOMING EVENTS (1 MINUTE PER PERSON)

City Councilmembers and community organization representatives may inform the public about upcoming events.

G. PUBLIC COMMENTS (3 MINUTES PER PERSON)

Speakers may provide public comments on any matter that is within the subject matter jurisdiction of the City Council, including items on the agenda. The Mayor may determine whether an item is within the subject matter jurisdiction of the City Council. While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda.

The City Council encourages the public to participate by submitting comments in advance of the meeting, no later than 12:00 PM, December 5, 2023 (the day of the meeting), via:

- 1) eComment at <http://www.manhattanbeach.gov/ecomment> or
- 2) Email to cityclerk@manhattanbeach.gov

All of your comments provided by the deadlines above will be available to the City Council and the public prior to the meeting.

IN PERSON PUBLIC PARTICIPATION

Please complete the "Request to Address the City Council" card by filling out your name, city of residence, the item(s) you would like to offer public comment, and returning it to the City Clerk.

ZOOM PUBLIC PARTICIPATION

If you wish to speak on any item on the agenda, please register in advance by clicking the following link: <https://citymb.seamlessdocs.com/f/publiccomment>, even when submitting this request you will need to use the "raise hand" feature via Zoom during the presentation of that Agenda Item in order to confirm with the City Clerk's Office that you wish to provide comments.

- 1) Join Zoom Meeting via the internet:

Direct URL: <https://citymb-info.zoom.us/j/93376200363>, Meeting ID: 933 7620 0363

During the meeting you will need to use the "raise hand" button through Zoom at the time the Agenda Item is being presented for City Council consideration.

- 2) Join Zoom Meeting via Phone Conference (Voice Only):

Phone Number: (669) 900-6833, Meeting ID: 933 7620 0363

During the meeting you will need to enter *9 on the phone's dial pad at to activate the "raise hand" button at the time the Agenda Item is being presented for City Council consideration.

Please note, the City is not responsible for the public's use of Zoom as it relates to the software, configuration, and setting on a personal device. The public is encouraged to visit the Zoom website for information on use of this software. The City's use of Zoom is consistent with the platform features and functions as described on the Zoom website.

H. CONSENT CALENDAR (APPROVE)

Items on the Consent Calendar are routine and customary items and are enacted by a single motion with the exception of items previously removed by a member of the City Council during "Approval of the Agenda" for individual consideration. Any items removed shall be individually considered immediately after taking action on the Consent Calendar.

1. City Council Minutes: [23-0467](#)

This Item Contains Minutes of the Following City Council Meeting(s):

a) City Council Adjourned Regular Meeting Minutes of November 21, 2023

b) City Council Regular Meeting Minutes of November 21, 2023

(City Clerk Tamura).

APPROVE

Attachments: [City Council Adjourned Regular Meeting Minutes of November 21, 2023](#)

[City Council Regular Meeting Minutes of November 21, 2023](#)

2. Financial Reports: [23-0523](#)

a) Schedule of Demands for November 3, 2023, and November 9, 2023

b) Investment Portfolio for the Month Ending October 31, 2023

c) Financial Month End Report for October 31, 2023 (Finance Director Charelion).

ACCEPT REPORTS AND DEMANDS

Attachments: [Schedule of Demands for November 3, 2023 and November 9, 2023](#)

[Investment Portfolio for the Month Ending October 2023](#)

[Financial Month End Report October 2023](#)

3. Consideration of a Resolution Approving City Contributions to Medical [23-0529](#)

Insurance for the Manhattan Beach Mid-Management Employees Association, Unrepresented Employees and Officials (Human Resources Director Jenkins).

ADOPT RESOLUTION NO. 23-0160

Attachments: [Resolution No. 23-0160](#)

4. Consideration of a Resolution to Accept a Grant of Easement Deed and [23-0473](#)

Temporary Construction Easement Deed for the Property at 1101 North Sepulveda Boulevard for the Manhattan Beach Boulevard and Sepulveda Boulevard Intersection Improvement Project (Public Works Director Lee).

ADOPT RESOLUTION NO. 23-0161

Attachments: [Resolution No. 23-0161](#)

[Grant of Easement Deed and Temporary Construction Easement Deed - 1101 N. Sepulveda Boulevard](#)

[Budget and Expenditures Summary](#)

[Location Map](#)

-
5. Consideration of Accepting as Complete the Marine Avenue at Cedar Avenue Traffic Signal and Intersection Improvements Project (Public Works Director Lee). [23-0441](#)
ACCEPT AND APPROVE
Attachments: [Location Map](#)
6. Consideration of Accepting as Complete the Rowell Avenue Sidewalk Gap Closure Between 1st Street and Curtis Avenue Project (Public Works Director Lee). [23-0392](#)
ACCEPT AND APPROVE
Attachments: [Location Map](#)
7. Consideration of a Resolution Adopting Caltrans Local Assistance Procedure Manual Chapter 10 for State and Federal Funded Transportation Projects Related to the Highway Safety Improvement Program (HSIP) Crosswalk Improvements Project (Public Works Director Lee). [23-0483](#)
A) ADOPT RESOLUTION NO. 23-0163
B) AUTHORIZE
Attachments: [Resolution No. 23-0163](#)
[Caltrans Local Assistance Procedure Manual Chapter 10](#)
[Location Map](#)
8. Consideration of a Resolution Approving a Three-Year Maintenance Services Agreement with Duthie Power Services for On-Call Auxiliary Generator Services in an Amount Not-to-Exceed \$300,000 (Public Works Director Lee). [23-0484](#)
ADOPT RESOLUTION NO. 23-0164
Attachments: [Resolution No. 23-0164](#)
[Agreement - Duthie Power Services](#)

9. Consideration of Resolutions Awarding a Professional Inspection Services Agreement to Faith Group, Inc. for the Citywide Security Cameras Project - Phases 1 and 2 in the Amount of \$159,680, and for On-Call Construction Management and Inspection for Phase 3 of the Citywide Security Cameras Program for \$100,000 for a Two-Year Term (Public Works Director Lee). [23-0435](#)
ADOPT RESOLUTION NOS. 23-0144 AND 23-0145
Attachments: [Resolution No. 23-0144](#)
[Agreement – Faith Group, Inc.](#)
[Resolution No. 23-0145](#)
[Agreement – Faith Group, Inc.](#)
[Budget Expenditure Summary](#)
[Location Map](#)
10. Consideration of Introducing an Ordinance Amending Section 7.28.100 of the Manhattan Beach Municipal Code (Municipal Code) Regarding the Responsibility of Property Owners within a Utility Undergrounding District, and Adoption of a Determination of Exemption Pursuant to 15302(d) and 15303(d) of the State CEQA Guidelines (Public Works Director Lee). [23-0494](#)
INTRODUCE ORDINANCE NO. 23-0013
Attachments: [Ordinance No. 23-0013](#)
[Ordinance No. 23-0013 \(Tracked Changes Version\)](#)
11. Consideration of Introducing an Ordinance to Establish Applicable Regulations Regarding Water System Cross-Connection Controls (Public Works Director Lee). [23-0337](#)
INTRODUCE ORDINANCE NO. 23-0011
Attachments: [Ordinance No. 23-0011](#)

I. ITEMS REMOVED FROM THE CONSENT CALENDAR

Each speaker may speak for up to 2 minutes on each item pulled from the agenda.

J. PUBLIC HEARINGS

At the discretion of the Mayor, each speaker may speak for up to 3 minutes on each public hearing item.

- 12.** Conduct Public Hearing for Consideration of Introduction of an Ordinance Amending Title 10 (Planning and Zoning) and Title 11 (Subdivisions) of the Manhattan Beach Municipal Code to Incorporate Proposed Regulations Related to Senate Bill 9 (SB 9) (Community Development Mirzakhonian). [23-0418](#)
(Estimated Time: 30 Mins.)

A) CONDUCT PUBLIC HEARING**B) INTRODUCE ORDINANCE NO. 23-0014**

Attachments: [Ordinance No. 23-0014](#)

[November 8, 2023 - Planning Commission Staff Report \(Web-Link Provided\)](#)

[PowerPoint Presentation](#)

- 13.** Conduct Public Hearing to Consider Revocation of the Use Permit (Resolution No. 6055) for Property Located at 1727 Artesia Boulevard Due to the Property Owner's Failure to Comply with Conditions of Approval (Community Development Director Mirzakhonian). [23-0428](#)
(Estimated Time: 30 Mins.)

A) CONDUCT PUBLIC HEARING**B) DIRECT STAFF TO BRING FORWARD A RESOLUTION REVOKING THE USE PERMIT ISSUED FOR THE SUBJECT PROPERTY**

Attachments: [Resolution No. 6055](#)

[PowerPoint Presentation](#)

K. GENERAL BUSINESS

Each speaker may speak for up to 2 minutes on each general business item.

- 14.** Consideration of a Juneteenth Community Celebration in 2024 and, if Approved, Appropriate \$30,000 from the General Fund (Parks and Recreation Director Leyman). [23-0409](#)
(Estimated Time: 75 Min.)

A) DISCUSS AND PROVIDE DIRECTION**B) APPROPRIATE FUNDS**

Attachments: [Juneteenth Survey Results](#)

[PowerPoint Presentation](#)

15. Update Regarding Police Department and Citywide Staffing and Recruitment, and Consideration of a Resolution Approving Various Recruitment and Retention Incentives (Police Chief Johnson and Human Resources Director Jenkins). [23-0537](#)

(Estimated Time: 30 Mins.)

ADOPT RESOLUTION NO. 23-0165

Attachments: [Resolution No. 23-0165](#)
[PowerPoint Presentation](#)

16. Consideration of a Resolution Amending the City Manager's Employment Agreement to Provide The City Manager with the Ability to Accrue Additional Annual Leave of Up To 150 "Non-Cashable" Hours That Must Be Used Prior To December 31, 2024 (City Attorney Barrow). [23-0543](#)

(Estimated Time: 5 Mins.)

ADOPT RESOLUTION NO. 23-0159, APPROVING AMENDMENT NO. 4 TO THE CITY MANAGER EMPLOYMENT AGREEMENT

Attachments: [Resolution No. 23-0159](#)
[Amendment No. 4 - City Manager's Employment Agreement](#)

L. CITY COUNCIL REQUESTS AND REPORTS INCLUDING AB 1234 REPORTS

In addition to providing reports of meetings and conferences attended by Councilmembers in connection with their official duties at City expense as required by AB 1234, Councilmembers requested at a previous City Council meeting that the following item(s) be placed on the agenda for discussion.

M. FUTURE AGENDA ITEMS

Councilmembers may request that items be placed on a future agenda with the concurrence of one other Councilmember.

N. CITY MANAGER REPORT

O. CITY ATTORNEY REPORT

P. INFORMATIONAL ITEMS

This section is for items that do not require City Council action.

17. Agenda Forecast (City Clerk Tamura). [23-0539](#)
INFORMATION ITEM ONLY

18. Commission Minutes: [23-0544](#)

This Item Contains Minutes of the following City Commission Meetings:

- a) Planning Commission Action Meeting Minutes of August 9, 2023
(Cancelled) (Community Development Director Mirzakhian)
- b) Planning Commission Action Meeting Minutes of September 13, 2023
(Cancelled) (Community Development Director Mirzakhian).

INFORMATION ITEM ONLY

- Attachments:** [Planning Commission Action Meeting Minutes of August 9, 2023
\(Cancelled\)](#)
[Planning Commission Action Meeting Minutes of September 13, 2023
\(Cancelled\)](#)

Q. CLOSED SESSION

R. ADJOURNMENT

S. FUTURE MEETINGS

CITY COUNCIL MEETINGS

December 19, 2023 - Tuesday -- 6:00 PM - City Council Meeting
January 2, 2024 - Tuesday -- 6:00 PM - City Council Meeting (Canceled)
January 9, 2024 - Tuesday -- 6:00 PM - City Council Adjourned Regular Meeting (Reorganization)
January 16, 2024 - Tuesday -- 6:00 PM - City Council Meeting
February 6, 2024 - Tuesday -- 6:00 PM - City Council Meeting
February 20, 2024 - Tuesday -- 6:00 PM - City Council Meeting
March 5, 2024 - Tuesday -- 6:00 PM - City Council Meeting
March 19, 2024 - Tuesday -- 6:00 PM - City Council Meeting
April 2, 2024 - Tuesday -- 6:00 PM - City Council Meeting
April 16, 2024 - Tuesday -- 6:00 PM - City Council Meeting
April 24 - Tuesday - TBD - Boards and Commissions Interviews
May 7, 2024 - Tuesday -- 6:00 PM - City Council Meeting
May 14, 2024 - Tuesday -- 6:00 PM - Budget and Capital Improvements Program Study Session
May 21, 2024 - Tuesday -- 6:00 PM - City Council Meeting
May 28, 2024 - Tuesday -- 6:00 PM - Budget and Capital Improvements Program Study Session
June 4, 2024 - Tuesday -- 6:00 PM - City Council Meeting
June 18, 2024 - Tuesday -- 6:00 PM - City Council Meeting
July 2, 2024 - Tuesday -- 6:00 PM - City Council Meeting
July 16, 2024 - Tuesday -- 6:00 PM - City Council Meeting
August 6, 2024 - Tuesday -- 6:00 PM - City Council Meeting
August 20, 2024 - Tuesday -- 6:00 PM - City Council Meeting
September 3, 2024 - Tuesday -- 6:00 PM - City Council Meeting
September 17, 2024 - Tuesday -- 6:00 PM - City Council Meeting
October 1, 2024 - Tuesday -- 6:00 PM - City Council Meeting
October 15, 2024 - Tuesday -- 6:00 PM - City Council Meeting
November 5, 2024 - Tuesday -- 6:00 PM - City Council Meeting
November 19, 2024 - Tuesday -- 6:00 PM - City Council Meeting
December 3, 2024 - Tuesday -- 6:00 PM - City Council Meeting
December 17, 2024 - Tuesday -- 6:00 PM - City Council Meeting

BOARDS, COMMISSIONS AND COMMITTEE MEETINGS

December 7, 2023 - Thursday - 4:00 PM - Parking and Public Improvements Commission Meeting (Rescheduled from November 24, 2023)
December 11, 2023 - Monday - 4:00 PM - Library Commission Meeting
December 13, 2023 - Wednesday - 3:00 PM - Planning Commission Meeting
December 21, 2023 - Monday - 4:00 PM - Cultural Arts Commission Meeting
December 27, 2023 - Wednesday - 3:00 PM - Planning Commission Meeting
December 28, 2023 - Monday - 4:00 PM - Parks and Recreation Commission Meeting

T. CITY OFFICES CLOSED**CITY HOLIDAYS:**

December 25, 2023 - Monday - Christmas Day Observed

January 1, 2024 – Monday – New Years Day Observed

January 15, 2024 – Monday – Martin Luther King Day

February 19, 2024 - Monday - Presidents Day

May 27, 2024 – Monday – Memorial Day

July 4, 2024 - Thursday - Independence Day

September 2, 2024 - Monday - Labor Day

October 14, 2024 – Monday – Columbus Day

November 11, 2024 – Monday – Veterans Day

November 28-29, 2024 - Thursday & Friday - Thanksgiving Holiday



CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Liza Tamura, City Clerk

Patricia Matson, Deputy City Clerk

SUBJECT:

City Council Minutes:

This Item Contains Minutes of the Following City Council Meeting(s):

- a) City Council Adjourned Regular Meeting Minutes of November 21, 2023
- b) City Council Regular Meeting Minutes of November 21, 2023
(City Clerk Tamura).

APPROVE

RECOMMENDATION:

The attached minutes are for City Council approval:

Attachment(s):

- 1. City Council Adjourned Regular Meeting Minutes of November 21, 2023
- 2. City Council Regular Meeting Minutes of November 21, 2023

City of Manhattan Beach

1400 Highland Avenue
Manhattan Beach, CA 90266



Meeting Minutes - Draft

Tuesday, November 21, 2023

5:00 PM

City Council Chambers and Zoom

City Council Adjourned Regular Meeting

ELECTED OFFICIALS

Mayor Richard Montgomery

Mayor Pro Tem Joe Franklin

Councilmember Amy Howorth

Councilmember David Lesser

Councilmember Steve Napolitano

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. ALSO IN SUPPORT OF MORE TRANSPARENCY AND THE AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE, THE CITY OFFERS CLOSED CAPTIONING FOR REGULAR CITY COUNCIL MEETINGS. FOR A COMPLETE RECORD OF THIS CITY COUNCIL MEETING, GO TO:

www.manhattanbeach.gov/departments/city-clerk/city-council-meetings-agendas-and-minutes

A. CALL MEETING TO ORDER

Mayor Montgomery called the meeting to order.

B. PLEDGE TO THE FLAG

Assistant to the City Manager George Gabriel led the Pledge of Allegiance.

C. ROLL CALL

Present: 5 - Mayor Montgomery, Mayor Pro Tem Franklin, Councilmember Howorth, Councilmember Lesser, and Councilmember Napolitano

D. APPROVAL OF THE AGENDA

A motion was made by Councilmember Lesser, seconded by Councilmember Howorth, to approve the agenda. The motion carried by the following vote:

Aye: 5 - Montgomery, Franklin, Howorth, Lesser and Napolitano

Nay: 0

E. PUBLIC COMMENTS (3 MINUTES PER PERSON)

Mayor Montgomery opened the floor to public comments.

Seeing no requests to speak, Mayor Montgomery closed the floor to public comments.

F. CLOSED SESSION

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

City Attorney Quinn Barrow announced the following Closed Session and provided that only Item 1b., "Conference with Legal Counsel (Anticipated Litigation)," would be considered by the City Council.

**a. CONFERENCE WITH LEGAL COUNSEL (EXISTING LITIGATION)
(Government Code Section 54956.9(d)(1))**

**Name of Case: First National Insurance Company of America v.
City of Manhattan Beach LASC
Los Angeles Superior Court**

Case No: 23TRCV02122

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

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

Number of Case(s): 1

II. RECESS INTO CLOSED SESSION

At 5:02 PM, the City Council recessed into Closed Session.

III. RECONVENE INTO OPEN SESSION

At 6:00 PM, the City Council reconvened into Open Session with all City Councilmembers present.

IV. CLOSED SESSION ANNOUNCEMENT IN OPEN SESSION

City Attorney Quinn Barrow announced that the City Council went into Closed Session to discuss one of the two items identified on the agenda and direction was given to the City Attorney.

G. ADJOURNMENT

At 6:01 PM, Mayor Montgomery adjourned the meeting.

Patricia Matson
Recording Secretary

Richard Montgomery
Mayor

ATTEST:

Liza Tamura
City Clerk

City of Manhattan Beach

1400 Highland Avenue
Manhattan Beach, CA 90266



Meeting Minutes - Draft

Tuesday, November 21, 2023

6:00 PM

Regular Meeting

City Council Chambers and Zoom

City Council Regular Meeting

ELECTED OFFICIALS

Mayor Richard Montgomery

Mayor Pro Tem Joe Franklin

Councilmember Amy Howorth

Councilmember David Lesser

Councilmember Steve Napolitano

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. ALSO IN SUPPORT OF MORE TRANSPARENCY AND THE AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE, THE CITY OFFERS CLOSED CAPTIONING FOR REGULAR CITY COUNCIL MEETINGS. FOR A COMPLETE RECORD OF THIS CITY COUNCIL MEETING, GO TO:

www.manhattanbeach.gov/departments/city-clerk/city-council-meetings-agendas-and-minutes

A. CALL MEETING TO ORDER

Mayor Montgomery called the meeting to order.

B. PLEDGE TO THE FLAG

Sloane Ross led the Pledge of Allegiance.

C. ROLL CALL

Roll Call by City Clerk Liza Tamura.

Present: 5 - Mayor Montgomery, Mayor Pro Tem Franklin, Councilmember Howorth, Councilmember Lesser and Councilmember Napolitano

D. CEREMONIAL CALENDAR

None.

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

A motion was made by Councilmember Howorth, seconded by Mayor Pro Tem Franklin, to approve the agenda and waive full reading of ordinances. The motion carried by the following vote:

Aye: 5 - Montgomery, Franklin, Howorth, Lesser and Napolitano

Nay: 0

F. CITY COUNCIL AND COMMUNITY ORGANIZATION ANNOUNCEMENTS OF UPCOMING EVENTS (1 MINUTE PER PERSON)

Mayor Montgomery announced that other cities had recently had their meetings disrupted by anti-Semitic or racially based comments through Zoom. Such comments are disruptive, interfere with the people's business, and are not within the subject matter jurisdiction of the City Council. He instructed the City Clerk's Office to mute any speakers who attempt to disrupt the meeting with anti-Semitic or derogatory comments based upon race, gender, or other protected categories.

Library Manager Josh Murray announced an Author Talk with Heather Hach on December 9, 2023, at 1:00 PM; and the library will be closed on November 23 and 24, 2023, in recognition of the Thanksgiving Holiday.

Mayor Pro Tem Franklin announced that the Mira Costa High School Football team is in the CIF finals on November 25, 2023, at 7:00 PM, at MCHS.

Mayor Montgomery announced the 31st Annual Beach Cities Toy Drive on December 16, 2023, at 10:30 AM at the Joslyn Community Center; the Coffee with the Mayor events on November 28, 2023, at Dunkin' and December 5, 2023, at Peet's Coffee from 3:30 PM-4:30 PM; any interested residents should sign-up to receive a ceremonial Baby Passport at an upcoming City Council Meeting; in November 2024 there will be a General Municipal Election with three City Council seats available and encouraged residents to run; Hermosa Beach had a burglary that Manhattan Beach Police Department assisted with; and City Hall will be closed Thursday and Friday in recognition of the Thanksgiving holiday.

Communications and Civic Engagement Manager Alexandria Latragna announced the unveiling of Fire Station No. 2 on November 29, 2023, at 3:00 PM.

G. PUBLIC COMMENTS (3 MINUTES PER PERSON)

Mayor Montgomery opened the floor to public comments. The following individual(s) spoke:

- Martha Koo*
- Lee Phillips*
- Rita Crabtree-Kampe*
- Heather Kim*
- Lucia La Rosa Ames*

Mayor Montgomery provided comments regarding homelessness that were brought up by previous speakers.

Public comment continued with the following individual(s):

- Ava Moore*
- Unknown MCHS Student*
- Unknown MCHS Student*

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

Councilmember Howorth wished everyone a happy Thanksgiving.

H. CONSENT CALENDAR (APPROVE)

A motion was made by Councilmember Howorth, seconded by Mayor Pro Tem Franklin, to approve the Consent Calendar. The motion carried by the following vote: 5

Aye: 5 - Montgomery, Franklin, Howorth, Lesser and Napolitano

Nay: 0

- 1. City Council Minutes: [23-0344](#)
 This Item Contains Minutes of the Following City Council Meeting(s):
 a) City Council Adjourned Regular Meeting Minutes of November 7, 2023
 b) City Council Regular Meeting Minutes of November 7, 2023
 (City Clerk Tamura).

APPROVE

The recommendation for this item was approved on the Consent Calendar.

2. Financial Reports: [23-0472](#)
Schedule of Demands October 20, 2023, and October 27, 2023
(Finance Director Charelian).

ACCEPT REPORTS AND DEMANDS

The recommendation for this item was approved on the Consent Calendar.

3. Consideration of Accepting the Resignation from Parking and Public Improvements Commissioner D'Amico, Declare Vacant the Parking and Public Improvements Commission Seat No. 4 (Business Community Seat), and Direct the City Clerk to Conduct Public Outreach for the Vacant Parking and Public Improvements Commission Seat No. 4 (Business Community Seat) (City Clerk Tamura). [23-0487](#)

A) ACCEPT RESIGNATION

B) DECLARE VACANCY

**C) DIRECT THE CITY CLERK TO CONDUCT PUBLIC
OUTREACH**

The recommendation for this item was approved on the Consent Calendar.

4. Consideration of a Resolution Approving an Agreement with Beach Cities Health District Allocating Opioid Settlement Agreement Funds in the Amount of \$82,733 and Approving an Appropriation of \$105,653 in the General Fund (City Manager Moe). [23-0149](#)

A) ADOPT RESOLUTION NO. 23-0117

B) APPROVE APPROPRIATION

The recommendation for this item was approved on the Consent Calendar.

5. Update Regarding Fire Department Staffing (Fire Chief Lang and Human Resources Director Jenkins). [23-0486](#)

RECEIVE REPORT

The recommendation for this item was approved on the Consent Calendar.

6. Consideration of a Resolution Awarding a Construction Agreement to Stephen Doreck Equipment Rentals, Inc. for the Cycle 2 Water Infrastructure Improvement and Street Resurfacing Project for \$2,942,898, Including Contingency; Approving the Plans and Specifications for the Project; and Adoption of a Determination of Exemption Pursuant to Section 15301(b) and (c) of the State California Environmental Quality Act (CEQA) Guidelines (Public Works Director Lee). [23-0417](#)

ADOPT RESOLUTION NO. 23-0153

The recommendation for this item was approved on the Consent Calendar.

- 7. Consideration of a Resolution Approving a Three-Year General Services Agreement with Merrimac Petroleum, Inc. dba Merrimac Energy Group for Bulk Fuel Purchases in an Amount Not-to-Exceed \$3,250,000 (Public Works Director Lee). [23-0353](#)
 - A) **ADOPT RESOLUTION NO. 23-0133**
 - B) **APPROPRIATE FUNDS**

The recommendation for this item was approved on the Consent Calendar.

- 8. Consideration of a Resolution Approving Amendment No. 5 for a Three-Year Extension of the Agreement with Granicus for Civic Engagement Services for a Not-to-Exceed Amount of \$566,707 (Information Technology Director Guardado and City Clerk Tamura). [23-0478](#)
 - ADOPT RESOLUTION NO. 23-0157**

The recommendation for this item was approved on the Consent Calendar.

I. ITEMS REMOVED FROM THE CONSENT CALENDAR

None.

J. PUBLIC HEARINGS

- 9. Conduct Public Hearing and Consider Adoption of a Resolution [23-0378](#)
Amending the City’s Local Coastal Program (LCP) in Compliance With Modifications Recommended by the California Coastal Commission for the New Coastal Hazards Chapter of the LCP (Community Development Director Mirzakhonian).

(Estimated Time: 15 Mins.)

A) CONDUCT PUBLIC HEARING

B) ADOPT RESOLUTION NO. 23-0154

Community Development Director Talyn Mirzakhonian introduced Environmental Programs Administrator Daniel Pankau who provided the PowerPoint presentation.

Environmental Programs Administrator Pankau and Community Development Director Mirzakhonian responded to City Council questions.

Mayor Montgomery opened the floor to public comments.

Seeing no requests to speak, Mayor Montgomery closed the floor to public comments.

A motion was made by Councilmember Howorth, seconded by Councilmember Lesser, to adopt Resolution No. 23-0154, a resolution of the Manhattan Beach City Council adopting California Coastal Commission suggested modifications to the Local Coastal Program Section VI Coastal Hazards. The motion carried by the following vote:

Aye: 5 - Montgomery, Franklin, Howorth, Lesser and Napolitano

Nay: 0

K. GENERAL BUSINESS

10. Consideration of Adopting Resolution No. 23-0158 to Modify the Storm Drain Measure Ballot Question on Resolution No. 23-0149 (Finance Director Charelian). [23-0518](#)

(Estimated Time: 20 Mins.)

ADOPT RESOLUTION NO. 23-0158

Finance Director Steve Charelian provided the staff presentation.

Mayor Montgomery opened the floor to public comments.

Seeing no requests to speak, Mayor Montgomery closed the floor to public comments.

A motion was made by Councilmember Howorth, seconded by Councilmember Lesser, to adopt Resolution No. 23-0158.

Public Works Director Erick Lee and City Attorney Quinn Barrow responded to City Council questions.

Mayor Pro Tem Franklin inquired if Councilmember Howorth would consider amending Resolution No. 23-0158 to include that there are 24 miles of City maintained storm drains in the ballot question within the resolution.

Councilmember Howorth declined the request as the City Attorney recommended that the information be included in the factual material that the public would receive.

City Manager Bruce Moe responded to City Council questions.

A motion was made by Councilmember Howorth, seconded by Councilmember Lesser, to adopt Resolution No. 23-0158, a resolution of the Council of the City of Manhattan Beach regarding a Special Mail Ballot Election on January 17, 2024, for submittal of a storm drain fee increase to owners of real property subject to the proposed increase. The motion carried by the following vote:

Aye: 5 - Montgomery, Franklin, Howorth, Lesser and Napolitano

Nay: 0

11. Consideration of a Resolution Adopting a Coyote Management and Response Plan; and Consideration of a Determination of Exemption Pursuant to Sections 15061(b)(3) and 15308 of the California Environmental Quality Act (CEQA) Guidelines (City Manager Moe).
(Estimated Time: 45 Mins.)

[23-0427](#)

A) ADOPT RESOLUTION NO. 23-0151

B) DISCUSS AND PROVIDRE DIRECTION

Assistant to the City Manager George Gabriel provided the PowerPoint presentation and responded to City Council questions.

Mayor Montgomery opened the floor to public comments.

Seeing no requests to speak, Mayor Montgomery closed the floor to public comments.

A motion was made by Councilmember Howorth to adopt Resolution No. 23-0151.

City Manager Bruce Moe requested clarification regarding the motion.

A motion was made by Councilmember Howorth, seconded by Mayor Pro Tem Franklin, to adopt Resolution No. 23-0151, a resolution of the Manhattan Beach City Council approving the Coyote Management and Response Plan; making a determination for exemption under CEQA pursuant to Sections 15061(b)(3) and 15308; and to direct staff to solicit bids for certified trappers for on-call trapping services. The motion carried by the following vote:

Aye: 5 - Montgomery, Franklin, Howorth, Lesser and Napolitano

Nay: 0

12. Consideration of the Cultural Arts Commission Recommendations for Mural Artwork at the Manhattan Beach Art Center and Police/Fire Locations and Costs, Selection of Final Artwork Design at Manhattan Heights Complex and Disbursement of up to \$105,000 from the Public Art Trust Fund (Parks and Recreation Director Leyman).

[23-0489](#)

(Estimated Time: 30 Mins.)

A) APPROVE ARTISTS, LOCATIONS, AND COST

B) DISBURSE FUNDS

Parks and Recreation Director Mark Leyman introduced Cultural Arts Manager Eilen Stewart who provided the PowerPoint presentation where each mural location was considered individually.

Manhattan Heights Complex

Mayor Montgomery opened the floor to public comments.

Seeing no requests to speak, Mayor Montgomery closed the floor to public comments.

The City Council, with Mayor Pro Tem Franklin abstaining, directed staff to install mural Option 1 as submitted by Armelle Vervialle Ngo with further direction to depict the skateboarder in the mural with a helmet on.

PD/Fire Wall

Mayor Montgomery opened the floor to public comments. The following individual(s) spoke:

Heather Kim

Seeing no further requests to speak, Mayor Montgomery closed the floor to public comments.

Cultural Arts Manager Stewart responded to City Council questions.

The City Council directed staff to install the mural art as submitted by Pamela Wall on the PD/Fire wall and to research alternate locations to install the Eric Snyder shark mural.

Manhattan Beach Art Center

Mayor Montgomery opened the floor to public comments. The following individual(s) spoke:

Heather Kim

Seeing no further requests to speak, Mayor Montgomery closed the floor to public comments.

The City Council directed staff to install the artwork as submitted by Emily Tanaka and to look into using the Marianna DeSalles artwork on a utility box.

There was no further direction provided by the City Council.

13. Quarterly Update on the City's Homelessness Initiatives Including: Consideration of a Resolution Approving Amendment No. 2 to the Agreement with Harbor Interfaith Services Extending the Term an Additional Year and Increasing Maximum Compensation by \$80,200 for Budgeted Housing Navigation and Case Management Services (City Manager Moe).

[23-0372](#)

(Estimated Time: 30 Mins.)

A) RECEIVE REPORT

B) ADOPT RESOLUTION NO. 23-0155

Assistant to the City Manager George Gabriel provided the PowerPoint presentation.

Assistant to the City Manager Gabriel and City Attorney Quinn Barrow responded to City Council questions.

Mayor Montgomery opened the floor to public comment. The following individual(s) spoke:

Ronson Chu

South Bay Cities Council of Governments (SBCCOG) Senior Project Manager of Homeless Services Ronson Chu responded to City Council questions.

Public comments continued with the following individual(s):

Heather Kim

Seeing no further requests to speak, Mayor Montgomery closed the floor to public comments.

Assistant to the City Manager Gabriel responded to City Council questions.

A motion was made by Councilmember Lesser to receive the report and adopt Resolution No. 23-0155.

Assistant to the City Manager Gabriel and SBCCOG Senior Project Manager of Homeless Services Chu responded to City Council questions.

Councilmember Franklin inquired if Councilmember Lesser would consider directing staff to continue to pursue utilizing City Net and the SBCCOG for homeless census services.

Councilmember Lesser accepted the request.

Assistant to the City Manager Gabriel responded to City Council questions.

A motion was made by Councilmember Lesser, seconded by Mayor Pro Tem Franklin to adopt Resolution No. 23-0155, a resolution of the Manhattan Beach City Council approving Amendment No. 2 to the agreement between the City of Manhattan Beach and Harbor Interfaith Services for homeless case management and housing navigation services; and direct staff to continue to pursue utilizing City Net and the SBCCOG for homeless census services. The motion carried by the following vote:

Aye: 5 - Montgomery, Franklin, Howorth, Lesser and Napolitano

Nay: 0

- 14. Consideration of Introducing an Ordinance and Adopting a Resolution of Intention to Amend the Contract Between the Board of Administration California Public Employees Retirement System (CalPERS) and the City of Manhattan Beach to Provide Provisions of Retirement Law Section 20516 - Employee Cost Sharing (Human Resources Director Jenkins). [23-0492](#)
(Estimated Time: 5 Mins.)

A) INTRODUCE ORDINANCE NO. 23-0012

B) ADOPT RESOLUTION NO. 23-0156

Human Resources Director Lisa Jenkins provided the staff presentation.

Mayor Montgomery opened the floor to public comment.

Seeing no requests to speak, Mayor Montgomery closed the floor to public comments.

A motion was made by Councilmember Howorth, seconded by Mayor Pro Tem Franklin, to introduce Ordinance No. 23-0012 and to adopt Resolution No. 23-0156, a resolution of intention of the Manhattan Beach City Council approving an amendment to the contract between the Board of Administration California Public Employees' Retirement System and the City of Manhattan Beach City Council.

City Attorney Quinn Barrow read the title of Ordinance No. 23-0012 into the record:

AN ORDINANCE OF THE MANHATTAN BEACH CITY COUNCIL AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

The motion carried by the following vote:

Aye: 5 - Montgomery, Franklin, Howorth, Lesser and Napolitano

Nay: 0

L. CITY COUNCIL REQUESTS AND REPORTS INCLUDING AB 1234 REPORTS

15. City Council AB 1234 Reports. [23-0500](#)
RECEIVE AND FILE

Mayor Montgomery reported that he went to the National League of Cities Conference in Atlanta, GA, where sessions included topics such as homelessness, crime, ballot measures, and library funding. He also provided that he went to China with other elected officials from California and that it was sponsored by the US Overseas China Friendship Association in order to promote business relations with China.

16. Consideration of a Request by Councilmember Howorth and Councilmember Napolitano to Discuss the LA vs. Hate Community Mural Art Project Program (City Manager Moe). [23-0519](#)
DISCUSS AND PROVIDE DIRECTION

City Manager Bruce Moe provided that items 16 and 17 each needed a third vote in order to come back on a future agenda.

Councilmember Lesser provided that he would be the third vote in order to have the item placed on a future agenda.

17. Consideration of a Request by Councilmember Napolitano and Councilmember Howorth to Discuss Objective Development Standards for Housing (City Manager Moe). [23-0520](#)
DISCUSS AND PROVIDE DIRECTION

Councilmember Lesser provided that he would be the third vote in order to have the item placed on a future agenda.

M. FUTURE AGENDA ITEMS

None.

N. CITY MANAGER REPORT

City Manager Bruce Moe wished everyone a happy Thanksgiving and expressed his gratitude for working in the city and for the community.

O. CITY ATTORNEY REPORT

City Attorney Quinn Barrow echoed City Manager Moe's comments.

P. INFORMATIONAL ITEMS

18. Agenda Forecast (City Clerk Tamura). [23-0345](#)
INFORMATION ITEM ONLY

This item was received and filed by order of the chair.

Q. CLOSED SESSION

None.

R. ADJOURNMENT

At 8:59 PM, Mayor Montgomery adjourned the meeting to 5:30 PM on December 5, 2023.

Patricia Matson
Recording Secretary

Richard Montgomery
Mayor

ATTEST:

Liza Tamura
City Clerk



CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Steve Charelian, Finance Director
Julie Bondarchuk, Financial Controller
Libby Bretthauer, Financial Services Manager

SUBJECT:

Financial Reports:

- a) Schedule of Demands for November 3, 2023, and November 9, 2023
- b) Investment Portfolio for the Month Ending October 31, 2023
- c) Financial Month End Report for October 31, 2023 (Finance Director Charelian).

ACCEPT REPORTS AND DEMANDS

RECOMMENDATION:

Staff recommends that the City Council accept the attached reports and demands.

FISCAL IMPLICATIONS:

The financial report included herein is 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 registers for November 3, 2023, and November 9, 2023, is \$4,009,413.51.

BACKGROUND:

Finance staff prepares a variety of financial reports for City Council and the Finance Subcommittee. A brief discussion of the attached report follows.

DISCUSSION:

Schedule of Demands:

Every week staff prepares a comprehensive listing of all disbursements 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.

Month End Report:

This package includes summary level financial information for the month ending October 31, 2023. This report marks the fourth month of fiscal year 2023-2024 and reflects the annual budget adopted by City Council. The report provides 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.

Lastly, a summary of balance sheet accounts managed by the City is included to provide the balances as of October 31, 2023. Balance sheet accounts record funds collected from private parties for a specific use together with the various expenditures that result from associated projects and activities. This report shows a brief description of each account along with its purpose, month-end balance, and the managing department.

PUBLIC OUTREACH:

After analysis, staff determined that public outreach was not required for this issue.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Schedule of Demands for November 3, 2023, and November 9, 2023
2. Investment Portfolio for the Month Ending October 31, 2023
3. Financial Month End Report for October 31, 2023

City of Manhattan Beach

Finance Department



Schedule of Demands

November 3, 2023, and November 9, 2023

CITY OF MANHATTAN BEACH
WARRANT REGISTER

WARRANT(S) AP110323; AP110923
DATED: 11/03/2023 & 11/09/2023

I HEREBY CERTIFY THAT THE CLAIMS OR DEMANDS COVERED BY THE ABOVE WARRANT(S) IN THE AMOUNT OF \$4,009,413.51 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.

THIS 5TH DAY OF DECEMBER

REVIEWED, CERTIFIED AND APPROVED
BY CITY MANAGER BRUCE MOE AND
BY FINANCE DIRECTOR STEVE CHARELIAN

WARRANT REGISTER (S) AP110323; AP110923	WARRANT(S)	AP110323 AP110923	143,496.94 1,950,603.34
	PREPAID WIRES / MANUAL CKS	AP110323 AP110923	362,827.13 338,866.90
	SUB-TOTAL WARRANTS		2,795,794.31
	VOIDS		(225.00)
	PAYROLL	PE 11/03/2023 PY	1,213,844.20
	TOTAL WARRANTS		\$ 4,009,413.51

CITY OF MANHATTAN BEACH

WARRANT REGISTER



WIRES

CHECK #	DATE	TYPE	PAYEE NAME	DESCRIPTION	AMOUNT
9103123	10/31/2023	W	CITY OF MANHATTAN BEACH	FLEXIBLE SPENDING	9,229.29
911032023	11/3/2023	W	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	CALPERS CONTRIBUTION PE 10-20-	353,597.84
SUB-TOTAL :					362,827.13

WARRANT #: AP110323

CHECK #	DATE	TYPE	PAYEE NAME	DESCRIPTION	AMOUNT
555996	11/3/2023	P	AARDVARK	BALLISTIC VESTS AND REPLACEMEN	8,744.30
555997	11/3/2023	P	ALL CITY MANAGEMENT SVCS	CROSSING GUARD SERVICES 10/1-1	26,677.52
555998	11/3/2023	P	ANNE GRAY LEWIS	ANNIE LEWIS - TENNIS LESSONS -	10,042.50
555999	11/3/2023	P	CA WATER SERVICE COMPANY	WATER SERVICE	62.33
556000	11/3/2023	P	CINTAS CORPORATION NO 640	AUTOMATED HAND SANITIZER STATI	63.39
556001	11/3/2023	P	DANA STAGGS	DANA STAGGS	495.00
556002	11/3/2023	P	DAWN AMANDA KELLY	DAWN KELLY	200.00
556003	11/3/2023	P	DELTA DENTAL OF CALIFORNIA	DENTAL PREMIUMS-NOVEMBER 2023	31,237.26
556004	11/3/2023	P	EMPLOYEE REFUND VENDOR	REIMBURSEMENT - DMV SALES TAX	105.00
556005	11/3/2023	P	EMPLOYEE REFUND VENDOR	REIMBURSEMENT-TRAVEL EXPENSE	279.00
556006	11/3/2023	P	GAIL MINDY WINTHROP	GAIL WINTHROP PAYMENT	450.00
556007	11/3/2023	P	HISTORY ASSOCIATES INCORPORATED	HISTORICAL COLLECTION SERVICES	47,782.21
556008	11/3/2023	P	MIHM INC	DECONTAMINATION OF JAIL CELL-L	2,075.00
556009	11/3/2023	P	NICHOLAS S DIMATTEO	FALL SESSION I VOLLEYBALL INST	5,055.00
556010	11/3/2023	P	ONWARD ENGINEERING	7104 THRU AUG'23 CYCLE 1 WATER	2,760.00
556011	11/3/2023	P	RYAN R OLSON	FALL SESSION I VOLLEYBALL INST	4,617.50
556012	11/3/2023	P	SHERI L. ALLEN	SHERI ALLEN	300.00
556013	11/3/2023	P	SULLY MILLER CONTRACTING CO	ASPHALT/EMULSION	448.43
556014	11/3/2023	P	TINA KATCHEN GALL	159 SEPT'23 COMMUNITY DEV & BL	2,042.50

CITY OF MANHATTAN BEACH

WARRANT REGISTER



WARRANT #: AP110323

CHECK #	DATE	TYPE	PAYEE NAME	DESCRIPTION	AMOUNT
556015	11/3/2023	P	UNITED PARCEL SERVICE	DELIVERY SERVICE	60.00
SUB-TOTAL WARRANT AP110323:					143,496.94
TOTAL WARRANT(S):					506,324.07

CITY OF MANHATTAN BEACH

DISBURSEMENT BY FUND

DATED 11/03/2023



<u>Fund</u>	<u>Fund Description</u>	<u>Amount</u>
100	General Fund	494,589.05
211	Police Safety Grants Fund	8,744.30
501	Water Fund	2,822.33
610	Fleet Management Fund	105.00
615	Building Maintenance & Operati	63.39
	GRAND TOTAL:	\$ 506,324.07

CITY OF MANHATTAN BEACH



WARRANT REGISTER

WIRES

CHECK #	DATE	TYPE	PAYEE NAME	DESCRIPTION	AMOUNT
911092023	11/9/2023	W	PAYROLL TAXES	PE 11-03-2023 F.I.T/ MEDICARE	338,866.90
SUB-TOTAL :					338,866.90

WARRANT #: AP110923

CHECK #	DATE	TYPE	PAYEE NAME	DESCRIPTION	AMOUNT
10087	11/9/2023	T	ICMA RC PLAN# 300548	DEFERRED COMP 457 AND LOAN REP	76,905.27
10088	11/9/2023	T	ICMA RC PLAN# 109365	PE 11-03-2023 DEFERRED COMP 40	1,406.90
10089	11/9/2023	T	ICMA RC PLAN# 109766	DEFERRED COMP 401A PLAN AND LO	16,725.54
10090	11/9/2023	T	ICMA RC PLAN# 803485	PE 11-03-2023 RETIREMENT HEALT	1,820.55
10091	11/9/2023	T	MANHATTAN BEACH MID	PE 11-3-2023 MBMEA DUES	1,034.00
556016	11/9/2023	P	ABBA TERMITE & PEST CONTROL	BEE REMOVAL & RELOCATION SERVI	225.00
556017	11/9/2023	P	ADMINSURE INC	CLAIMS ADMINISTRATION & MEDICA	20,335.00
556018	11/9/2023	P	ANTHRO INTERNATIONAL INC	DEPARTMENT CHAIRS	2,816.89
556019	11/9/2023	P	ARDURRA GROUP INC	141986 SEPT'23 INSPECTION FOR	160.00
556020	11/9/2023	P	AT&T MOBILITY	CELLULAR PHONE CHARGES FOR 09/	332.99
556021	11/9/2023	P	AT&T MOBILITY	CELL SERVICE (OCTOBER)	661.55
556022	11/9/2023	P	BEACH CITIES HEALTH DISTRICT	BCHD SPONSORED SELF DEFENSE CL	225.00
556023	11/9/2023	P	BIG BELLY SOLAR LLC	BIG BELLY SOLAR TRASH/RECYCLIN	2,323.29
556024	11/9/2023	P	BORDER RECAPING LLC	COMMERCIAL VEHICLE & TIRE SERV	2,909.59
556025	11/9/2023	P	CA NEWSPAPER PARTNERSHIP	ADVERTISING	353.44
556026	11/9/2023	P	CA TEAMSTERS LOCAL 911	PE 11-03-2023 TEAMSTERS DUES	6,217.00
556027	11/9/2023	P	CCS LOS ANGELES JANITORIAL INC	JANITORIAL CONTRACT SERVICES	50,487.60
556028	11/9/2023	P	CHARTER COMMUNICATIONS	CABLE SERVICE	4,119.27
556029	11/9/2023	P	COMPANY NURSE LLC	WORK INJURY TRIAGE HOTLINE	330.00
556030	11/9/2023	P	CONTEMPORARY SERVICES CORP	CROWD MGMT SERVICES- MB 10K RA	19,780.08
556031	11/9/2023	P	CONTROL AUTOMATION DESIGN INC	SCADA SYSTEM UPGRADE, PROGRAMM	6,240.00
556032	11/9/2023	P	CPS HUMAN RESOURCE SERVICES	EMPLOYEE TRAINING & DEVELOPMEN	10,400.00
556033	11/9/2023	P	CROSTOWN ELECTRICAL & DATA INC	4879-002 THRU 9/30/23 MARINE@C	277,278.16
556034	11/9/2023	P	CUSTOMER REFUND	PARKS & RECREATION REFUND	364.00
556035	11/9/2023	P	CUSTOMER REFUND	PARKS & RECREATION REFUND	66.00
556036	11/9/2023	P	DAVID VOLZ DESIGN LANDSCAPE	ON-CALL LANDSCAPING DESIGN SER	16,670.00
556037	11/9/2023	P	DELL MARKETING LP	TECHNICAL SUPPORT	254.78

CITY OF MANHATTAN BEACH



WARRANT REGISTER

CHECK #	DATE	TYPE	PAYEE NAME	DESCRIPTION	AMOUNT
556038	11/9/2023	P	DELL MARKETING LP	COMPUTER REPLACEMENTS	49,862.76
556039	11/9/2023	P	DEWEY SERVICES INC	INTEGRATED PEST MANAGEMENT SER	2,430.00
556040	11/9/2023	P	DIANA FLYNN	INSTRUCTOR PAYMENT FOR BLOCK P	190.00
556041	11/9/2023	P	DORIS USUI	COMEDY IMPROV PAYMENT FOR DORI	696.00
556042	11/9/2023	P	DORIS USUI	COMEDY IMPROV #40825 #40826	357.28
556043	11/9/2023	P	DUDEK	HOUSING ELEMENT CONTRACT: 8/26	170.00
556044	11/9/2023	P	EMOTIONAL HEALTH ASSOCIATION	HOUSING ASSISTANCE (AUGUST 202	2,785.00
556045	11/9/2023	P	EMPLOYEE REFUND VENDOR	REIMBURSEMENT FOR DMV CLASS A	98.87
556046	11/9/2023	P	EMPLOYEE REFUND VENDOR	CWEA REIMBURSEMENT FOR J. MART	168.00
556047	11/9/2023	P	ENVIRONMENTAL SCIENCE ASSOC	ESA SEPTEMBER 2023	1,461.50
556048	11/9/2023	P	EQUINIX INC	DATA CENTER SECURE RACK SERVIC	1,543.50
556049	11/9/2023	P	FEDERAL EXPRESS CORPORATION	DELIVERY SERVICE	8.17
556050	11/9/2023	P	FRANCHISE TAX BOARD	PE 11-03-2023 GARNISHMENT	275.00
556051	11/9/2023	P	FRANCHISE TAX BOARD	PE 11-03-2023 GARNISHMENT	457.10
556052	11/9/2023	P	FRONTIER CALIFORNIA INC	TELEPHONE SERVICE	984.67
556053	11/9/2023	P	FRONTIER COMMUNICATIONS OF	INTERNET SERVICES	2,540.00
556054	11/9/2023	P	GEOSPATIAL TECHNOLOGY INC	GST VEHICLE LOCATING SOFTWARE	5,180.00
556055	11/9/2023	P	GRIFFIN STRUCTURES INC	GSI-MBFS2-25 SEPT'23 FIRE STAT	36,855.00
556056	11/9/2023	P	HARBOR INTERFAITH SERVICES INC	HOMELESS OUTREACH & HOUSING NA	15,646.26
556057	11/9/2023	P	HAZEN AND SAWYER	20036-005-9 JULY-AUG'23 WATER	265.00
556058	11/9/2023	P	HUNTER CONSULTING INC	RANGE LEAD DECONTAMINATION SER	13,795.00
556059	11/9/2023	P	INSIGHT PUBLIC SECTOR INC	STORAGE AREA NETWORK PURCHASE	123,920.73
556060	11/9/2023	P	JASON ADDISON SMITH CONSULTING	PLAN CHECK- SEPTEMBER 2023	67,587.66
556061	11/9/2023	P	JOE MAR POLYGRAPH &	PRE-EMPLOYMENT POLYGRAPH EXAMS	3,250.00
556062	11/9/2023	P	KEVORK ENTERPRISES INC	AUTO BODY REPAIRS	1,355.00
556063	11/9/2023	P	KOA CORPORATION	JC18141-21 OCT'23 MARINE AVENU	1,362.00
556064	11/9/2023	P	L A COUNTY DEPARTMENT OF PUBLIC	TRAFFIC SERVICES	6,385.06
556065	11/9/2023	P	LOS ANGELES COUNTY DEPARTMENT	PM ACCRED RENEWAL	155.00
556066	11/9/2023	P	M B POLICE MGMT ASSC	PE 11-03-2023 MBPMA DUES	525.00
556067	11/9/2023	P	M B POLICE OFFICERS ASSOCIA	PE 11-03-2023 MBPOA DUES	3,409.38
556068	11/9/2023	P	MAIN STREET TOURS INC	BUS TRANSPORTATION FOR OFFICER	4,880.00
556069	11/9/2023	P	MANHATTAN BEACH PART TIME	PE 11-3-2023 MB PART TIMERS DU	75.00

CITY OF MANHATTAN BEACH



WARRANT REGISTER

CHECK #	DATE	TYPE	PAYEE NAME	DESCRIPTION	AMOUNT
556070	11/9/2023	P	MELAD AND ASSOCIATES INC	CONTRACT PLAN CHECK SEPTEMBER	50,699.46
556071	11/9/2023	P	MERCHANTS LANDSCAPE SVCS INC	LANDSCAPE MAINTENANCE SERVICES	25,802.00
556072	11/9/2023	P	MERIDIAN RAPID DEFENSE GRP LLC	ANTI VEHICLE BARRIER - MB HOME	4,902.86
556073	11/9/2023	P	MERRIMAC ENERGY GROUP	BULK FUEL	32,576.27
556074	11/9/2023	P	MONET CONSTRUCTION INC	23 SEPT'23 FIRE STATION NO. 2	253,235.83
556075	11/9/2023	P	NAVIA BENEFIT SOLUTIONS INC	NAVIA - FSA ADMINISTRATION	377.20
556076	11/9/2023	P	ONWARD ENGINEERING	7156 SEPT'23 CYCLE 3 CDBG ADA	12,929.00
556077	11/9/2023	P	ORANGE COUNTY STRIPING SVCS	ON-CALL ROADWAY STRIPING SERVI	486.00
556078	11/9/2023	P	PACIFIC ADVANCED CIVIL ENG	7680 THRU AUG'23 LARSSON STREE	6,000.00
556079	11/9/2023	P	PACIFIC COAST ELEVATOR CORP	ELEVATOR AND ESCALATOR SERVICE	5,000.00
556080	11/9/2023	P	PACKET FUSION INC	PB16073 - FS2 EMERGENCY PHONE	768.87
556081	11/9/2023	P	PARKHOUSE TIRE SERVICES INC	TIRE SERVICE	3,090.25
556082	11/9/2023	P	PBK ARCHITECTS INC	44 SEPT'23 FIRE STATION 2 REPL	7,010.00
556083	11/9/2023	P	PK HEALTHCARE SERVICES INC	ONSITE WELLNESS (FLU SHOTS)	3,330.00
556084	11/9/2023	P	PORAC RETIREE MEDICAL TRUST	PE 11-03-2023 MED TRUST CONTRI	4,226.25
556085	11/9/2023	P	PREPAID LEGAL SERVICES INC	PE 11-3-2023 PREPAID LEGAL	15.95
556086	11/9/2023	P	QUANTUM QUALITY CONSULTING INC	MB23.015 OCT'23 MBB & PECK TRA	10,500.00
556087	11/9/2023	P	RACE TELECOMMUNICATIONS INC	INTERNET SERVICES/SOUTH BAY FI	4,544.68
556088	11/9/2023	P	RICARDO ANTONIO RAMIREZ	COMEDY IMPROV PAYMENT FOR RICK	1,053.28
556089	11/9/2023	P	RICHARDS WATSON & GERSHON	RETAINER (OCTOBER 2023)	31,146.00
556090	11/9/2023	P	ROBERT MICHAEL SCHWIEGER	BROADCASTING & EDITING SVCS -	9,550.00
556091	11/9/2023	P	ROSEMARY A LACKOW	PLANNING COMMISSION MEETING 10	416.00
556092	11/9/2023	P	SA ASSOCIATES	CYC3SEW-06 JULY-SEPT'23 SEWER	45,387.25
556093	11/9/2023	P	SACRAMENTO POLICE DEPARTMENT	REGISTRATION-DRIVER INSTRUCTOR	3,938.00
556094	11/9/2023	P	SELECTIVE GIFT INSTITUTE	EMPLOYEE SERVICE AWARDS	27.38
556095	11/9/2023	P	SOUTHERN CALIFORNIA EDISON	STREET LIGHTING CHARGES	15,252.82
556096	11/9/2023	P	SOUTHERN CALIFORNIA EDISON	MONTHLY ELECTRIC CHARGES	127,830.74
556097	11/9/2023	P	SOUTHERN CALIFORNIA GAS CO	MONTHLY GAS CHARGES	7,372.94
556098	11/9/2023	P	SOUTHERN CALIFORNIA GAS CO	QUARTERLY GAS CHARGES	22,852.02
556099	11/9/2023	P	SOUTHERN CALIFORNIA SWIMMING	2023 SOUTHERN CALIFORNIA SWIMM	88.00
556100	11/9/2023	P	STATE DISBURSEMENT UNIT	PE 11-03-2023 GARNISHMENT	160.15
556101	11/9/2023	P	STATE DISBURSEMENT UNIT	PE 11-03-2023 GARNISHMENT	514.15

CITY OF MANHATTAN BEACH



WARRANT REGISTER

<u>CHECK #</u>	<u>DATE</u>	<u>TYPE</u>	<u>PAYEE NAME</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
556102	11/9/2023	P	STATE DISBURSEMENT UNIT	PE 11-03-2023 GARNISHMENT	680.76
556103	11/9/2023	P	SWA GROUP INC	197250 SEPT'23 POLLIWOG PARK P	2,237.66
556104	11/9/2023	P	T MOBILE USA	MONTHLY SERVICE	30.80
556105	11/9/2023	P	THE CODE GROUP INC	PLAN CHECK SERVICES SEPTEMBER	21,499.50
556106	11/9/2023	P	THE EDGE FITNESS TRAINING	MB FIT WELLNESS PROGRAM	300.00
556107	11/9/2023	P	THE PITNEY BOWES BANK INC	PITNEY BOWES RESERVE ACCOUNT D	9,000.00
556108	11/9/2023	P	TRACY MILLER CONSULTING INC	COMMUNICATIONS CONSULTING - SE	7,000.00
556109	11/9/2023	P	U.S. BANK	PE 11-03-2023 PARS	4,611.86
556110	11/9/2023	P	UNIFIRST CORPORATION	UNIFORM AND SAFETY MAT RENTAL	3,213.49
556111	11/9/2023	P	UNITED PARCEL SERVICE	DELIVERY SERVICE	30.00
556112	11/9/2023	P	UNITED SITE SVCS OF CA INC	PORTABLE RESTROOMS	1,478.83
556113	11/9/2023	P	US BANCORP CARD SERVICES INC	P-CARD CHARGES FOR OCT 2023	258,106.80
556114	11/9/2023	P	VAN LINGEN BODY SHOP INC	TOWING SERVICE	370.50
556115	11/9/2023	P	VECTOR RESOURCES INC	BLOCK OF HOURS/NETWORK & CABLI	3,480.00
556116	11/9/2023	P	VEOLIA WTS SERVICES USA INC	WATER SYSTEMS TECHNOLOGIES	173.23
556117	11/9/2023	P	VERIZON CALIFORNIA INC	SHERIFFS DATA NETWORK-SEPTEMBE	8,210.19
556118	11/9/2023	P	VERIZON CALIFORNIA INC	MONTHLY SERVICE	38.01
556119	11/9/2023	P	VITAL MEDICAL SERVICES LLC	MBPD OTS CHECKPOINT OPERATIONS	9,166.00
556120	11/9/2023	P	WALTERS WHOLESALE ELECTRIC CO	ELECTRICAL SUPPLIES	10,640.05
556121	11/9/2023	P	WASTE MANAGEMENT INC	REFUSE CHARGES	235.42
556122	11/9/2023	P	WATERTALENT LLC	TEMPORARY STAFFING SERVICES FO	19,550.00
556123	11/9/2023	P	WEST COAST ARBORISTS INC	TREE MANAGEMENT SERVICES	27,106.05
556124	11/9/2023	P	WESTCHESTER MEDICAL GROUP	NEW HIRE EXAMS AND DMV EXAMS	3,245.00
SUB-TOTAL WARRANT AP110923:					1,950,603.34
TOTAL WARRANT(S):					\$ 2,289,470.24

CITY OF MANHATTAN BEACH



DISBURSEMENT BY FUND

DATED 11/09/2023

Fund	Fund Description	Amount
100	General Fund	1,234,226.84
201	Street Lighting & Landscape Fu	56,406.67
205	Gas Tax Fund	12,929.00
231	Prop. C Fund	282,116.57
233	Measure R	7,023.59
234	Measure M	14,410.00
401	Capital Improvement Fund	46,871.53
402	Bond Construction Fund	238,985.83
501	Water Fund	17,674.42
502	Stormwater Fund	2,437.54
503	Wastewater Fund	57,152.02
520	Parking Fund	19,984.75
521	County Parking Lots Fund	79.51
522	State Pier and Parking Lot Fun	10,954.26
601	Insurance Reserve Fund	24,295.00
605	Information Technology Fund	191,272.36
610	Fleet Management Fund	40,558.13
615	Building Maintenance & Operati	32,092.22
GRAND TOTAL:		\$ 2,289,470.24

CITY OF MANHATTAN BEACH

VOIDED CHECK LISTING



<u>CHECK #</u>	<u>DATE</u>	<u>VENDOR NAME</u>	<u>VOID AMOUNT</u>
555825	11/02/2023	PERRY ALLISON	225.00
GRAND TOTAL VOIDS:			\$ 225.00

CITY OF MANHATTAN BEACH PAYROLL
PAY PERIOD: 10/21/23 TO 11/03/23
PAY DATE: 11/10/23

NET PAY 1,213,844.20

CITY OF MANHATTAN BEACH



DISBURSEMENT BY FUND

DATED 11/03/2023

Fund	Fund Description	Amount
100	General Fund	1,563,440.19
210	Asset Forfeiture Fund	3,145.24
230	Prop. A Fund	18,231.26
501	Water Fund	57,502.63
502	Stormwater Fund	2,702.62
503	Wastewater Fund	26,525.31
520	Parking Fund	5,838.02
521	County Parking Lots Fund	1,155.74
522	State Pier and Parking Lot Fun	1,155.68
601	Insurance Reserve Fund	15,476.54
605	Information Technology Fund	49,774.46
610	Fleet Management Fund	11,829.03
615	Building Maintenance & Operati	31,037.62
801	Pension Trust Fund	7,741.75
	TOTAL	1,795,556.09
	LESS: DEDUCTIONS	(581,711.89)
	NET PAYROLL	\$ 1,213,844.20

City of Manhattan Beach

Finance Department



Investment Portfolio

October 2023

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.

A handwritten signature in blue ink, appearing to read "Steve S. Charelian". The signature is written in a cursive style and is positioned above a horizontal line.

Steve S. Charelian, Finance Director

CITY OF MANHATTAN BEACH
Portfolio Management
Portfolio Summary
October 1, 2023 through October 31, 2023

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
LAIF	26,653,799.67	26,653,799.67	26,653,799.67	23.27	1	1	3.620	3.670
Medium Term Notes	20,000,000.00	18,414,310.00	19,075,910.29	16.66	1,660	1,148	3.456	3.504
Federal Agency Issues - Coupon	29,000,000.00	27,742,120.00	28,758,474.33	25.11	1,424	638	2.396	2.429
Treasury Securities - Coupon	41,000,000.00	37,730,560.00	40,038,193.86	34.96	1,584	881	1.936	1.963
Investments	116,653,799.67	110,540,789.67	114,526,378.15	100.00%	1,188	660	2.696	2.734
Cash								
Passbook/Checking (not included in yield calculations)	4,986,897.23	4,986,897.23	4,986,897.23		1	1	0.000	0.000
Total Cash and Investments	121,640,696.90	115,527,686.90	119,513,275.38		1,188	660	2.696	2.734
Total Earnings								
	October 31	Month Ending	Fiscal Year To Date					
Current Year		237,971.56	960,855.52					

STEVE S. CHARELIAN, FINANCE DIRECTOR

Reporting period 10/01/2023-10/31/2023

Run Date: 11/22/2023 - 17:19

City Council Meeting
December 5, 2023

Portfolio CITY
CP
PM (PRF_PM1) 7.3.11
Report Ver 7.3.11

CITY OF MANHATTAN BEACH
Portfolio Management
Portfolio Details - Investments
October 31, 2023

CUSIP	Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	S&P	YTM	Days to Maturity	Maturity Date
LAIF											
SYS3000	3000	Local Agency Invest. Fund	07/01/2018	26,653,799.67	26,653,799.67	26,653,799.67	3.670		3.670	1	
Subtotal and Average				26,653,799.67	26,653,799.67	26,653,799.67			3.670	1	

Medium Term Notes

037833DB3	MTN0112	APPLE INC	10/25/2022	1,000,000.00	919,430.00	926,410.29	2.900	AA+	4.905	1,411	09/12/2027
037833ET3	MTN0121	APPLE INC	06/12/2023	1,000,000.00	952,810.00	992,446.00	4.000	AA+	4.171	1,652	05/10/2028
023135BX3	MTN0111	AMAZON.COM LLC	02/24/2022	1,000,000.00	899,430.00	972,214.84	1.000	AA	1.963	923	05/12/2026
023135BC9	MTN0116	AMAZON.COM LLC	02/09/2023	1,000,000.00	925,200.00	955,654.78	3.150	AA	4.282	1,390	08/22/2027
06406RAL1	MTN0109	BANK OF NY MELLO	02/10/2020	1,000,000.00	964,020.00	1,011,205.00	2.100	A	1.850	358	10/24/2024
06406RAF4	MTN0118	BANK OF NY MELLO	04/14/2023	1,000,000.00	908,600.00	959,059.91	3.400	A	4.410	1,550	01/29/2028
194162AR4	MTN0123	COLGATE-PALM CO	07/10/2023	2,000,000.00	1,959,080.00	1,992,460.00	4.600	AA-	4.690	1,582	03/01/2028
22160KAN5	MTN0117	COSTCO COMPANIES	04/14/2023	1,000,000.00	870,350.00	908,947.14	1.375	A+	3.743	1,327	06/20/2027
22160KAN5	MTN0119	COSTCO COMPANIES	04/18/2023	1,000,000.00	870,350.00	907,900.21	1.375	A+	3.765	1,327	06/20/2027
254687FK7	MTN0107	Walt Disney	12/12/2019	2,000,000.00	1,934,840.00	1,994,901.64	1.750	A-	1.977	303	08/30/2024
478160CP7	MTN0113	Johnson & Johnson	10/25/2022	1,000,000.00	856,100.00	863,285.17	0.950	AAA	4.593	1,400	09/01/2027
478160CP7	MTN0114	Johnson & Johnson	12/22/2022	1,000,000.00	856,100.00	884,038.16	0.950	AAA	3.880	1,400	09/01/2027
191216CL2	MTN0108	COCA-COLA CO	12/12/2019	1,000,000.00	968,820.00	993,679.00	1.750	A+	1.890	310	09/06/2024
191216DD9	MTN0124	COCA-COLA CO	07/10/2023	1,000,000.00	839,550.00	851,830.00	1.000	A+	4.374	1,596	03/15/2028
594918BY9	MTN0115	MICROSOFT CORP	12/22/2022	1,000,000.00	944,710.00	970,825.17	3.300	AAA	4.163	1,193	02/06/2027
58933YAY1	MTN0110	MERCK & CO INC	10/05/2021	1,000,000.00	901,720.00	991,420.00	0.750	A+	0.950	846	02/24/2026
58933YBH7	MTN0120	MERCK & CO INC	06/12/2023	1,000,000.00	951,880.00	992,917.00	4.050	A+	4.210	1,659	05/17/2028
931142ER0	MTN0122	WALMART INC	06/12/2023	1,000,000.00	891,320.00	906,715.98	1.050	AA	4.183	1,051	09/17/2026
Subtotal and Average				20,000,000.00	18,414,310.00	19,075,910.29			3.504	1,148	

Federal Agency Issues - Coupon

31422XW99	FAC0304	FARMER MAC	02/14/2023	1,000,000.00	953,970.00	1,000,000.00	3.850		3.850	1,566	02/14/2028
3133ENPX2	FAC0294	FED FARM CR BK	02/24/2022	1,000,000.00	941,990.00	997,642.00	1.800	AA+	1.870	660	08/22/2025
3133EJDV8	FAC0296	FED FARM CR BK	04/11/2022	2,000,000.00	1,883,240.00	2,029,510.43	3.150	AA+	2.747	1,237	03/22/2027
3133ENWP1	FAC0297	FED FARM CR BK	05/16/2022	2,000,000.00	1,969,620.00	2,000,000.00	2.625	AA+	2.625	197	05/16/2024
3133ENEJ5	FAC0301	FED FARM CR BK	06/17/2022	1,000,000.00	954,350.00	967,981.64	0.875		3.250	383	11/18/2024
3133ENV72	FAC0303	FED FARM CR BK	10/27/2022	1,000,000.00	986,820.00	998,356.00	4.500		4.550	999	07/27/2026
3130A2UW4	FAC0285	Federal Home Loan Bank	12/11/2019	2,000,000.00	1,956,360.00	2,026,781.80	2.875		1.771	317	09/13/2024
3130AGWK7	FAC0289	Federal Home Loan Bank	02/07/2020	1,000,000.00	967,570.00	1,001,306.00	1.500	AA+	1.470	288	08/15/2024
3130A1XJ2	FAC0291	Federal Home Loan Bank	02/04/2021	1,000,000.00	983,910.00	1,025,351.96	2.875	AA+	0.312	226	06/14/2024
3130A8ZQ9	FAC0293	Federal Home Loan Bank	02/24/2022	1,000,000.00	939,580.00	995,852.00	1.750	AA+	1.871	681	09/12/2025
3130ASDS5	FAC0300	Federal Home Loan Bank	06/17/2022	1,000,000.00	982,430.00	990,620.00	2.750		3.230	240	06/28/2024

Portfolio CITY
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CITY OF MANHATTAN BEACH
Portfolio Management
Portfolio Details - Investments
October 31, 2023

CUSIP	Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	S&P	YTM	Days to Maturity	Maturity Date
Federal Agency Issues - Coupon											
3130AN4T4	FAC0302	Federal Home Loan Bank	10/24/2022	1,000,000.00	900,110.00	901,096.77	0.875		4.343	954	06/12/2026
3130A3DU5	FAC0306	Federal Home Loan Bank	06/12/2023	1,000,000.00	937,570.00	965,172.65	3.000	AA+	4.048	1,227	03/12/2027
3130AWC24	FAC0307	Federal Home Loan Bank	07/10/2023	1,000,000.00	961,110.00	980,718.06	4.000	AA+	4.483	1,682	06/09/2028
3137EAEX3	FAC0298	Federal Home Loan Mortgage	05/13/2022	2,000,000.00	1,829,480.00	1,897,431.02	0.375	AA+	2.722	692	09/23/2025
3135G0W66	FAC0286	Fannie Mae	12/11/2019	2,000,000.00	1,928,660.00	1,993,020.00	1.625	AA+	1.700	349	10/15/2024
3135G0W66	FAC0287	Fannie Mae	02/07/2020	2,000,000.00	1,928,660.00	2,011,260.00	1.625	AA+	1.500	349	10/15/2024
3135G0V75	FAC0288	Fannie Mae	02/07/2020	2,000,000.00	1,951,240.00	2,005,040.61	1.750	AA+	1.526	244	07/02/2024
3135G0V75	FAC0290	Fannie Mae	02/04/2021	1,000,000.00	975,620.00	1,015,308.35	1.750	AA+	0.259	244	07/02/2024
3135G05Y5	FAC0305	Fannie Mae	04/14/2023	1,000,000.00	851,020.00	889,386.01	0.750		3.597	1,437	10/08/2027
880591EW8	FAC0295	Tennessee Valley Authority	02/24/2022	1,000,000.00	931,870.00	980,242.45	0.750	AA+	1.763	561	05/15/2025
880591CJ9	FAC0299	Tennessee Valley Authority	05/13/2022	1,000,000.00	1,026,940.00	1,086,396.58	6.750	AA+	2.894	731	11/01/2025
Subtotal and Average				29,000,000.00	27,742,120.00	28,758,474.33			2.429	638	
Treasury Securities - Coupon											
912828W48	UST0033	US TREASURY	05/13/2019	1,000,000.00	988,980.00	995,039.06	2.125		2.234	120	02/29/2024
912828W71	UST0034	US TREASURY	05/13/2019	1,000,000.00	986,370.00	994,687.50	2.125		2.240	151	03/31/2024
9128282U3	UST0035	US TREASURY	02/07/2020	2,000,000.00	1,941,400.00	2,009,523.10	1.875		1.493	304	08/31/2024
912828ZW3	UST0036	US TREASURY	05/28/2021	1,000,000.00	922,340.00	993,274.47	0.250		0.561	607	06/30/2025
912828ZW3	UST0039	US TREASURY	08/11/2021	1,000,000.00	922,340.00	993,084.36	0.250		0.591	607	06/30/2025
912828ZT0	UST0047	US TREASURY	12/08/2021	1,000,000.00	925,430.00	984,808.19	0.250		1.058	577	05/31/2025
912828ZC7	UST0051	US TREASURY	12/09/2021	1,000,000.00	946,680.00	1,003,906.25	1.125		1.001	485	02/28/2025
912828Z78	UST0054	US TREASURY	04/08/2022	2,000,000.00	1,798,600.00	1,920,471.07	1.500		2.665	1,187	01/31/2027
9128282A7	UST0057	US TREASURY	06/17/2022	1,000,000.00	911,560.00	945,083.00	1.500		3.287	1,018	08/15/2026
912828X88	UST0059	US TREASURY	09/01/2022	1,000,000.00	918,910.00	966,695.38	2.375		3.285	1,291	05/15/2027
912828X88	UST0060	US TREASURY	09/01/2022	1,000,000.00	918,910.00	966,320.36	2.375		3.295	1,291	05/15/2027
912828ZV5	UST0062	US TREASURY	09/01/2022	1,000,000.00	854,730.00	896,912.72	0.500		3.241	1,337	06/30/2027
912828YQ7	UST0064	US TREASURY	10/25/2022	1,000,000.00	909,490.00	915,206.00	1.625		4.180	1,095	10/31/2026
9128282R0	UST0066	US TREASURY	02/09/2023	1,000,000.00	909,610.00	939,566.28	2.250		3.747	1,383	08/15/2027
91282CAB7	UST0037	US TREASURY	05/28/2021	2,000,000.00	1,837,740.00	1,985,593.36	0.250		0.576	638	07/31/2025
91282CAJ0	UST0038	US TREASURY	05/28/2021	1,000,000.00	915,660.00	991,661.58	0.250		0.620	669	08/31/2025
91282CAB7	UST0040	US TREASURY	08/11/2021	1,000,000.00	918,870.00	992,747.50	0.250		0.601	638	07/31/2025
91282CAJ0	UST0041	US TREASURY	08/11/2021	1,000,000.00	915,660.00	992,069.78	0.250		0.586	669	08/31/2025
91282CAZ4	UST0042	US TREASURY	08/09/2021	1,000,000.00	908,560.00	992,979.34	0.375		0.658	760	11/30/2025
91282CAB7	UST0043	US TREASURY	10/05/2021	1,000,000.00	918,870.00	990,759.58	0.250		0.681	638	07/31/2025
91282CAT8	UST0044	US TREASURY	10/05/2021	2,000,000.00	1,818,680.00	1,976,901.44	0.250		0.707	730	10/31/2025
91282CCW9	UST0045	US TREASURY	10/05/2021	1,000,000.00	891,090.00	992,500.00	0.750		0.907	1,034	08/31/2026

Portfolio CITY
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PM (PRF_PM2) 7.3.11

CITY OF MANHATTAN BEACH
Portfolio Management
Portfolio Details - Investments
October 31, 2023

CUSIP	Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	S&P	YTM 365	Days to Maturity	Maturity Date
Treasury Securities - Coupon											
91282CCP4	UST0046	US TREASURY	10/05/2021	1,000,000.00	891,060.00	991,732.72	0.625		0.892	1,003	07/31/2026
91282CCF6	UST0048	US TREASURY	12/09/2021	1,000,000.00	899,180.00	987,545.08	0.750		1.191	942	05/31/2026
91282CCJ8	UST0049	US TREASURY	12/09/2021	1,000,000.00	900,860.00	990,513.58	0.875		1.176	972	06/30/2026
91282CCZ2	UST0050	US TREASURY	12/09/2021	1,000,000.00	892,810.00	989,148.45	0.875		1.210	1,064	09/30/2026
91282CAM3	UST0052	US TREASURY	02/24/2022	2,000,000.00	1,825,780.00	1,931,563.91	0.250		1.678	699	09/30/2025
91282CDG3	UST0053	US TREASURY	04/08/2022	1,000,000.00	895,980.00	950,944.94	1.125		2.581	1,095	10/31/2026
91282CEH0	UST0055	US TREASURY	05/16/2022	1,000,000.00	963,560.00	996,500.00	2.625		2.750	531	04/15/2025
91282CCP4	UST0056	US TREASURY	06/17/2022	1,000,000.00	891,060.00	920,994.76	0.625		3.187	1,003	07/31/2026
91282CCZ2	UST0058	US TREASURY	06/17/2022	1,000,000.00	892,810.00	924,410.65	0.875		3.302	1,064	09/30/2026
91282CEW7	UST0061	US TREASURY	09/01/2022	1,000,000.00	945,900.00	997,755.04	3.250		3.300	1,337	06/30/2027
91282CFB2	UST0063	US TREASURY	09/01/2022	1,000,000.00	927,380.00	979,788.81	2.750		3.309	1,368	07/31/2027
91282CFB2	UST0065	US TREASURY	12/22/2022	1,000,000.00	927,380.00	959,884.27	2.750		3.787	1,368	07/31/2027
91282CGH8	UST0067	US TREASURY	02/09/2023	2,000,000.00	1,896,320.00	1,977,621.33	3.500		3.804	1,552	01/31/2028
Subtotal and Average				41,000,000.00	37,730,560.00	40,038,193.86			1.963	881	
Total and Average				116,653,799.67	110,540,789.67	114,526,378.15			2.734	660	

CITY OF MANHATTAN BEACH
Portfolio Management
Portfolio Details - Cash
October 31, 2023

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	07/01/2018	4,986,897.23	4,986,897.23	4,986,897.23			0.000	1
Subtotal and Average										1
Total Cash and Investments				121,640,696.90	115,527,686.90	119,513,275.38			2.734	660



City of Manhattan Beach Investment Portfolio Summary *As of October 31, 2023*

PORTFOLIO PROFILE	Oct 31, 2023	Sep 30, 2023	Aug 31, 2023	Jul 31, 2023	Jun 30, 2023
Total Book Value (Excluding Trust Funds)	\$114,526,378	\$122,202,752	\$126,206,553	\$129,212,774	\$135,056,946
Increase/(Decrease) from Prior Period	(7,676,374)	(4,003,801)	(3,006,221)	(5,844,171)	(921,490)
Percentage Change	(6.3%)	(3.2%)	(2.3%)	(4.3%)	(0.7%)
Average Yield to Maturity (365 Days)	2.734%	2.755%	2.719%	2.671%	2.607%
Increase/(Decrease) from Prior Period	(0.021%)	0.035%	0.049%	0.064%	0.085%

PORTFOLIO ALLOCATIONS

By Security	Value (Par)	Percent	Par YTM	Time Horizon	Percent
LAIF*	\$26,653,800	22.85%	3.670%	Next 12 months	42%
Medium Term Notes	20,000,000	17.1%	3.504%	Months 13-24	18%
Federal Agencies	29,000,000	24.9%	2.429%	Months 25-36	15%
U.S. Treasuries	41,000,000	35.1%	1.963%	Months 37-48	17%
Total	\$116,653,800	100.0%	2.733%	Months 49-60	9%
				Total	100.0%

*LAIF YTM as of October 31, 2023

RECENT ACTIVITY

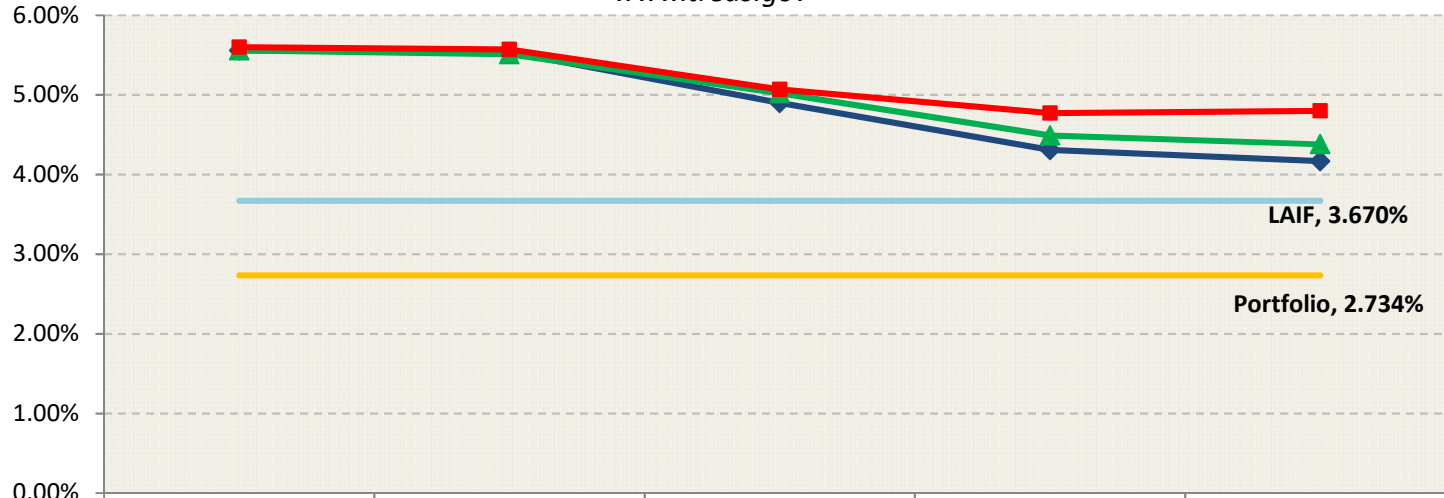
Security	Date of Activity	Maturity Date	Purchase (Par)	Maturing/Call	YTM
FHLB - 4% Coupon	7/10/2023	6/9/2028	1,000,000		4.483%
CL - 4.6% Coupon	7/10/2023	3/1/2028	2,000,000		4.690%
KO - 1% Coupon	7/10/2023	3/15/2028	1,000,000		4.374%
Total Purchases			\$4,000,000		4.559%
Matured: MSFT - 2% Coupon	8/8/2023	8/8/2023		1,000,000	2.025%
Matured: BK - 2.2% Coupon	8/16/2023	8/16/2023		1,000,000	1.951%
Matured: T - 1.375% Coupon	8/31/2023	8/31/2023		1,000,000	2.432%
Matured: FNMA - 2.875% Coupon	9/12/2023	9/12/2023		1,000,000	0.499%
Matured: TMC - 3.460964% Coupon	9/20/2023	9/20/2023		1,000,000	3.461%
Matured: TMC - 2.25% Coupon	10/18/2023	10/18/2023		1,000,000	2.634%
Total Maturing/Calls				\$6,000,000	2.167%



City of Manhattan Beach
Investment Portfolio Summary
As of October 31, 2023

US Treasuries Yield Curve

www.treas.gov



	3-Month	6-Month	2-Year	5-Year	10-Year
◆ August 2023	5.56%	5.54%	4.90%	4.31%	4.17%
▲ September 2023	5.56%	5.51%	5.02%	4.49%	4.38%
■ October 2023	5.60%	5.57%	5.07%	4.77%	4.80%

Monthly yields are interpolated by the Treasury from the daily yield curve.

CITY OF MANHATTAN BEACH
Portfolio Maturity Structure
November 2023 through October 2028

HELD TO MATURITY
Rolling 60 Months

Mth	Mat.	YTM	Inv	Call	Amt	Mth	Mat.	YTM	Inv	Call	Amt	Mth	Mat.	YTM	Inv	Call	Amt	Mth	Mat.	YTM	Inv	Call	Amt						
Nov 23						Nov 24	11/18/24	3.25%	FFCB	nc	\$1.0M	Nov 25	11/30/25	0.66%	T	nc	\$1.0M	Nov 26						Nov 27					
Dec 23						Dec 24						Dec 25	11/1/25	2.89%	TVA	nc	\$1.0M	Dec 26						Dec 27					
Jan 24						Jan 25						Jan 26						Jan 27	1/31/27	2.67%	T	nc	\$2.0M	Jan 28	1/29/28	4.41%	BK	nc	\$1.0M
																			1/31/28	3.80%	T	nc	\$2.0M						
Feb 24	2/29/24	2.2%	T	nc	\$1.0M	Feb 25	2/28/25	1.00%	T	nc	\$1.0M	Feb 26	2/24/26	0.95%	MRK	MW: 10	\$1.0M	Feb 27	2/6/27	4.16%	MSFT	nc	\$1.0M	Feb 28	2/14/28	3.85%	FAMCA	nc	\$1.0M
Mar 24	3/31/24	2.2%	T	nc	\$1.0M	Mar 25						Mar 26						Mar 27	3/22/27	2.75%	FFCB	nc	\$2.0M	Mar 28	3/1/28	4.69%	CL	nc	\$2.0M
																			3/12/27	4.05%	FHLB	nc	\$1.0M		3/15/28	4.37%	KO	nc	\$1.0M
Apr 24						Apr 25	4/15/25	2.75%	T	nc	\$1.0M	Apr 26						Apr 27						Apr 28					
May 24	5/16/24	2.6%	FFCB	nc	\$2.0M	May 25	5/15/25	1.76%	TVA	nc	\$1.0M	May 26	5/31/26	1.19%	T	nc	\$1.0M	May 27	5/15/27	3.28%	T	nc	\$1.0M	May 28	5/17/28	4.21%	MRK	nc	\$1.0M
							5/31/25	1.06%	T	nc	\$1.0M		5/12/26	1.96%	AMZN	nc	\$1.0M		5/15/27	3.29%	T	nc	\$1.0M		5/10/28	4.17%	AAPL	nc	\$1.0M
Jun 24	6/14/24	0.3%	FHLB	nc	\$1.0M	Jun 25	6/30/25	0.56%	T	nc	\$1.0M	Jun 26	6/30/26	1.18%	T	nc	\$1.0M	Jun 27	6/20/27	3.74%	COST	nc	\$1.0M	Jun 28	6/9/28	4.48%	FHLB	nc	\$1.0M
	6/28/24	3.2%	FHLB	nc	\$1.0M		6/30/25	0.59%	T	nc	\$1.0M		6/12/26	4.34%	FHLB	nc	\$1.0M		6/30/27	3.24%	T	nc	\$1.0M						
													6/30/27	3.30%	T	nc	\$1.0M		6/20/27	3.76%	COST	nc	\$1.0M						
Jul 24	7/2/24	1.5%	FNMA	nc	\$2.0M	Jul 25	7/31/25	0.58%	T	nc	\$2.0M	Jul 26	7/31/26	0.89%	T	nc	\$1.0M	Jul 27	7/31/27	3.31%	T	nc	\$1.0M	Jul 28					
	7/2/24	0.3%	FNMA	nc	\$1.0M		7/31/25	0.60%	T	nc	\$1.0M		7/31/26	3.19%	T	nc	\$1.0M		7/31/27	3.79%	T	nc	\$1.0M						
							7/31/25	0.68%	T	nc	\$1.0M		7/27/26	4.55%	FFCB	nc	\$1.0M												
Aug 24	8/15/24	1.5%	FHLB	nc	\$1.0M	Aug 25	8/31/25	0.62%	T	nc	\$1.0M	Aug 26	8/31/26	0.91%	T	nc	\$1.0M	Aug 27	8/15/27	3.75%	T	nc	\$1.0M	Aug 28					
	8/30/24	2.0%	DIS	7/30/24	\$2.0M		8/31/25	0.59%	T	nc	\$1.0M		8/15/26	3.29%	T	nc	\$1.0M		8/22/27	4.28%	AMZN	nc	\$1.0M						
	8/31/24	1.5%	T	nc	\$2.0M		8/22/25	1.87%	FFCB	nc	\$1.0M																		
Sep 24	9/6/24	1.9%	KO	9/6/24	\$1.0M	Sep 25	9/12/25	1.87%	FHLB	nc	\$1.0M	Sep 26	9/30/26	1.21%	T	nc	\$1.0M	Sep 27	9/12/27	4.91%	AAPL	nc	\$1.0M	Sep 28					
	9/13/24	1.8%	FHLB	nc	\$2.0M		9/23/25	2.72%	FHLMC	nc	\$2.0M		9/30/26	3.30%	T	nc	\$1.0M		9/1/27	4.59%	JNJ	nc	\$1.0M						
							9/30/25	1.68%	T	nc	\$2.0M		9/17/26	4.18%	WMT	nc	\$1.0M		9/1/27	3.88%	JNJ	nc	\$1.0M						
Oct 24	10/15/24	1.7%	FNMA	nc	\$2.0M	Oct 25	10/31/25	0.71%	T	nc	\$2.0M	Oct 26	10/31/26	2.58%	T	nc	\$1.0M	Oct 27	10/8/27	3.60%	FNMA	nc	\$1.0M	Oct 28					
	10/15/24	1.5%	FNMA	nc	\$2.0M								10/31/26	4.18%	T	nc	\$1.0M												
	10/24/24	1.9%	BK	9/6/24	\$1.0M																								
Total By Year (excl LAIF)					\$22.0m						\$21.0m						\$17.0m						\$20.0m						
% of Total Securities (excl LAIF)					24%						23%						19%						22%						
% of Total Investments (incl LAIF)					42%						18%						15%						17%						

Total Securities	77%	\$90.0M
LAIF	23%	\$26.7M
Total Investments	100%	\$116.7M

Shaded rows indicate months with significant cash inflows.

City of Manhattan Beach
Investment Policy Compliance Chart
As of October 31, 2023

Instrument		% of Total	Dollar Compliance		Percentage Compliance		Term Compliance	
			Limit	Compliant?	Limit	Compliant?	Limit	Compliant?
Local Agency Investment Fund (LAIF)	\$26,653,800	22.8%	\$75,000,000	Yes	Temporary Suspension			
Treasury Securities								
US Treasury	\$41,000,000	35.1%					5 Years	Yes
<i>Total U.S. Treasuries (35)</i>	<u>\$41,000,000</u>	35.1%						
Medium Term (Corporate) Notes								
Coca-Cola	2,000,000	1.7%			5.0%	Yes	5 Years	Yes
Amazon	2,000,000	1.7%			5.0%	Yes	5 Years	Yes
Costco	2,000,000	1.7%			5.0%	Yes	5 Years	Yes
Walmart	1,000,000	0.9%			5.0%	Yes	5 Years	Yes
Colgate-Palmolive	2,000,000	1.7%			5.0%	Yes	5 Years	Yes
<i>Total Consumer Goods Sector</i>	<i>\$9,000,000</i>	<i>7.7%</i>			<i>10.0%</i>	<i>Yes</i>		
Bank of NY	2,000,000	1.7%			5.0%	Yes	5 Years	Yes
<i>Total Financial Sector</i>	<i>\$2,000,000</i>	<i>1.7%</i>			<i>10.0%</i>	<i>Yes</i>		
Johnson & Johnson	2,000,000	1.7%			5.0%	Yes	5 Years	Yes
Merck	2,000,000	1.7%			5.0%	Yes	5 Years	Yes
<i>Total Pharmaceuticals Sector</i>	<i>\$4,000,000</i>	<i>3.4%</i>			<i>10.0%</i>	<i>Yes</i>		
Apple Inc	2,000,000	1.7%			5.0%	Yes	5 Years	Yes
Microsoft Corp	1,000,000	0.9%			5.0%	Yes	5 Years	Yes
<i>Total Technology Sector</i>	<i>\$3,000,000</i>	<i>2.6%</i>			<i>10.0%</i>	<i>Yes</i>		
Walt Disney Co	2,000,000	1.7%			5.0%	Yes	5 Years	Yes
<i>Total Communication Services Sector</i>	<i>\$2,000,000</i>							
Total Medium Term Notes (18)	<u>\$20,000,000</u>	17.1%			20.0%	Yes		
Federal Agencies								
Federal Home Loan Bank (FHLB)	\$9,000,000	7.7%			33.3%	Yes	5 Years	Yes
Federal Farm Credit (FFCB)	7,000,000	6.0%			33.3%	Yes	5 Years	Yes
Fannie Mae (FNMA)	8,000,000	6.9%			33.3%	Yes	5 Years	Yes
Freddie Mac (FHLMC)	2,000,000	1.7%			33.3%	Yes	5 Years	Yes
Farmer Mac (FAMCA)	1,000,000	0.9%			33.3%	Yes	5 Years	Yes
Tennessee Valley Authority (TVA)	2,000,000	1.7%			33.3%	Yes	5 Years	Yes
Total Federal Agencies (22)	<u>\$29,000,000</u>	24.9%			60.0%	Yes		
Total Portfolio	\$116,653,800	100.0%						



CITY OF MANHATTAN BEACH
TREASURER'S REPORT
October 31, 2023

<u>Investments</u>	Book Value
LAIF	\$26,653,799.67
Treasury Securities	40,038,193.86
Federal Agency Issues-Coupon	28,758,474.33
Medium Term Notes	19,075,910.29
Subtotal Investments	<u>\$114,526,378.15</u>
<u>Demand Deposit/Petty Cash</u>	
Cash in Bank	\$4,986,897.23
Petty Cash	2,280.41
Subtotal Demand Deposit	<u>\$4,989,177.64</u>
Subtotal City Cash & Investments	<u>\$119,515,555.79</u>
<u>Bond Funds Held in Trust</u>	
Police Fire Refunding	\$59.55
Fire Station 2 COPs	75.49
Marine Ave Park Refunding	0.05
Metlox & Water/Wastewater Refunding	202.11
Utility Assessment Districts	1,159,649.08
Pension Obligation Bonds	2,746.43
Subtotal Bonds Held in Trust	<u>\$1,162,732.71</u>
<u>Investment Trust Funds</u>	
PARS Pension Rate Stabilization Trust	2,719,723.53
Treasurer's Balance	<u>\$123,398,012.03</u>



PMIA/LAIF Performance Report as of 11/14/23



Quarterly Performance Quarter Ended 09/30/23

LAIF Apportionment Rate ⁽²⁾ :	3.59
LAIF Earnings Ratio ⁽²⁾ :	0.00009812538629360
LAIF Administrative Cost ^{(1)*} :	0.29
LAIF Fair Value Factor ⁽¹⁾ :	0.986307739
PMIA Daily ⁽¹⁾ :	3.48
PMIA Quarter to Date ⁽¹⁾ :	3.42
PMIA Average Life ⁽¹⁾ :	256

PMIA Average Monthly Effective Yields⁽¹⁾

October	3.670
September	3.534
August	3.434
July	3.305**
June	3.167
May	2.993

Pooled Money Investment Account Monthly Portfolio Composition ⁽¹⁾ 10/31/23 \$165.7 billion

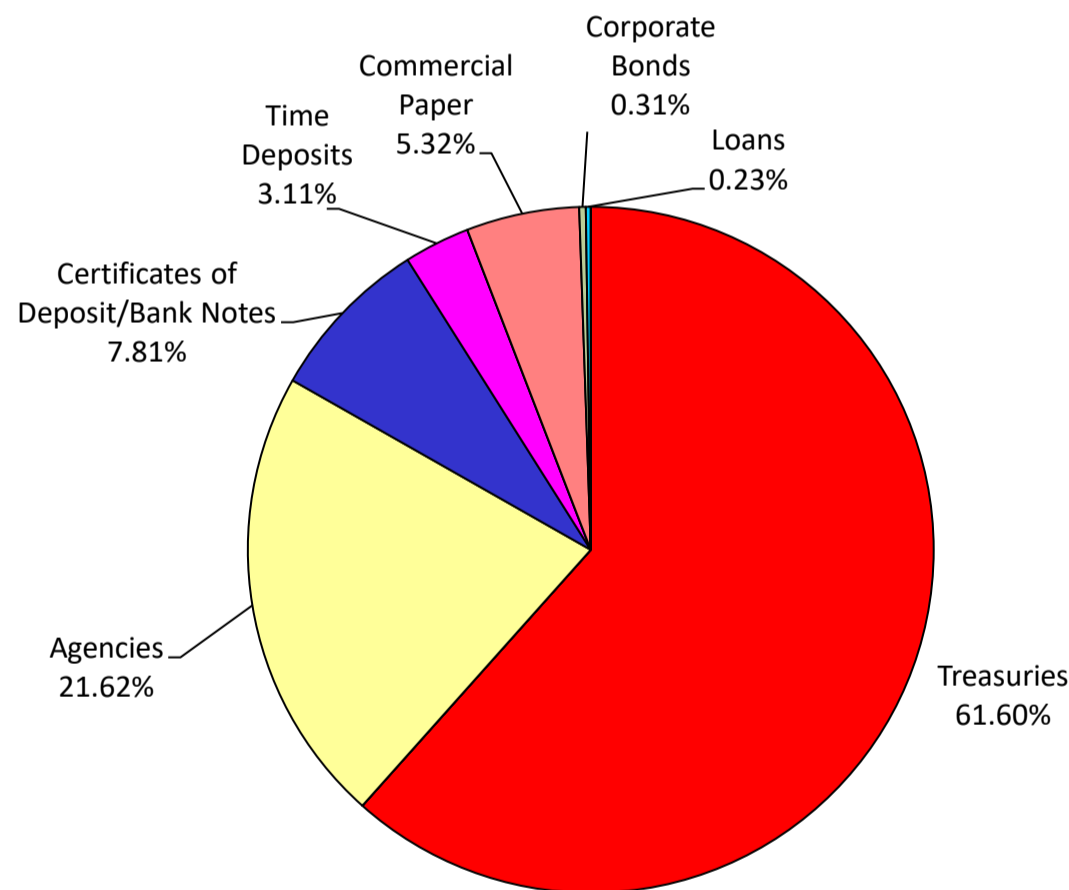


Chart does not include \$2,300,000.00 in mortgages, which equates to 0.001%. Percentages may not total 100% due to rounding.

Daily rates are now available here. [View PMIA Daily Rates](#)

Notes: The apportionment rate includes interest earned on the CalPERS Supplemental Pension Payment pursuant to Government Code 20825 (c)(1) and interest earned on the Wildfire Fund loan pursuant to Public Utility Code 3288 (a).

*The percentage of administrative cost equals the total administrative cost divided by the quarterly interest earnings. The law provides that administrative costs are not to exceed 5% of quarterly EARNINGS of the fund. However, if the 13-week Daily Treasury Bill Rate on the last day of the fiscal year is below 1%, then administrative costs shall not exceed 8% of quarterly EARNINGS of the fund for the subsequent fiscal year.

** Revised

Source:

⁽¹⁾ State of California, Office of the Treasurer

⁽²⁾ State of California, Office of the Controller

City of Manhattan Beach

Finance Department



Month End Report

October 2023

Fiscal Year 2022-2023



City of Manhattan Beach
 Fiscal Year 2023-2024 General Fund Expenditures by Department
 As of October 31, 2023

**% of Year
33.3%**

Current Year Activity

	Dept No.	Original Budget	Budget Adjustments ¹	Adjusted Budget	YTD Expenditures	YTD Encumbrances	Available Budget	% Used
Management Services	11	\$4,772,336	\$318,674	\$5,091,010	\$1,189,927	\$311,968	\$3,589,115	29.5%
Finance	12	4,072,716	64,446	4,137,162	1,298,082	130,119	2,708,961	34.5%
Human Resources	13	1,698,442	40,482	1,738,924	471,366	39,413	1,228,145	29.4%
Parks and Recreation	14	11,616,474	116,816	11,733,290	3,619,698	956,363	7,157,228	39.0%
Police	15	35,878,624	116,296	35,994,920	9,823,948	102,026	26,068,945	27.6%
Fire	16	16,595,215	12,918	16,608,133	5,198,385	61,161	11,348,587	31.7%
Community Development	17	7,851,987	446,771	8,298,758	2,212,449	500,368	5,585,941	32.7%
Public Works	18	10,340,170	774,993	11,115,163	2,993,786	1,174,014	6,947,364	37.5%
Information Technology	19	-	-	-	-	-	-	-
		\$92,825,964	\$1,891,395	\$94,717,359	\$26,807,641	\$3,275,433	\$64,634,286	31.8%

¹Budget Adjustments include City Council-approved adjustments during the current year and encumbrances carried forward from the prior year.



City of Manhattan Beach
Fiscal Year 2023-2024 Statement of Revenues & Expenditures
As of October 31, 2023

% of Year
33.3%

Current Year Activity

	Fund No.	Adjusted			Adjusted			
		Budget Revenues	YTD Revenues	% Realized	Budget Expenditures	Year-to-Date		% Utilized
					Expenditures	Encumbrances		
General Fund	100	\$93,300,981	\$21,175,153	22.7%	\$94,717,359	\$26,807,641	\$3,275,433	31.8%
Street Lighting & Landscaping Fund	201	390,597	1,478	0.4%	730,365	167,956	23,150	26.2%
Gas Tax Fund	205	1,982,355	687,541	34.7%	4,574,162	489,040	1,643,050	46.6%
Asset Forfeiture Fund	210	41,800	8,821	21.1%	90,500	11,029	-	12.2%
Police Safety Grants Fund	211	164,000	133,206	81.2%	269,421	39,400	-	14.6%
Prop A Fund	230	1,403,363	285,950	20.4%	1,171,132	230,787	407,731	54.5%
Prop C Fund	231	839,596	509,875	60.7%	3,637,466	2,433,950	422,097	78.5%
AB 2766 Fund	232	47,500	11,546	24.3%	275,673	224	-	0.1%
Measure R Fund	233	2,482,521	389,787	15.7%	1,556,916	30,389	536,770	36.4%
Measure M Fund	234	3,999,190	308,352	7.7%	5,880,763	1,688,840	373,833	35.1%
Measure W Fund	240	25,530,264	111,929	0.4%	26,938,812	32,969	629,029	2.5%
Capital Improvements Fund	401	2,272,393	985,749	43.4%	11,152,980	1,086,526	1,417,442	22.5%
Bond Construction Fund	402	-	242,805	n/a	1,899,593	1,157,323	706,652	98.1%
Underground Assessment District Construction	403	-	129,618	n/a	368,389	12,612	8,389	5.7%
Water Fund	501	16,201,728	6,387,524	39.4%	20,919,761	4,654,591	3,004,675	36.6%
Stormwater Fund	502	393,051	138,604	35.3%	3,260,173	246,292	120,519	11.3%
Wastewater Fund	503	3,898,500	2,061,596	52.9%	4,328,228	733,843	528,959	29.2%
Parking Fund	520	4,457,200	1,833,986	41.1%	4,442,179	707,374	223,793	21.0%
County Parking Lots Fund	521	1,382,200	426,402	30.8%	1,017,984	64,839	24,591	8.8%
State Pier & Parking Lot Fund	522	858,500	369,003	43.0%	2,747,336	128,126	2,161,289	83.3%
Insurance Reserve Fund	601	8,857,380	3,230,552	36.5%	8,775,042	4,279,575	206,097	51.1%
Information Technology Fund	605	4,404,750	1,468,256	33.3%	5,166,879	1,630,175	473,071	40.7%
Fleet Management Fund	610	3,204,433	961,718	30.0%	4,995,171	1,079,154	1,534,787	52.3%
Building Maintenance & Operation Fund	615	2,560,994	711,402	27.8%	2,841,710	732,476	265,242	35.1%
Special Assessment Debt Service	710	714,150	8,961	1.3%	706,475	661,814	-	93.7%
Special Assessment UAD 19-12 19-14 Fund	711	606,106	7,054	1.2%	605,807	492,358	-	81.3%
Special Assessment UAD 19-4 Fund	712	337,613	3,683	1.1%	337,363	271,974	-	80.6%
City Pension Fund	801	264,480	559	0.2%	196,680	65,151	-	33.1%
Pension Stabilization Fund	804	50,000	(140,080)	-280.2%	-	-	-	-
		\$180,645,645	\$42,451,032	23.5%	\$213,604,320	\$49,936,428	\$17,986,600	23.4%



City of Manhattan Beach
Fiscal Year 2023-2024 Citywide Revenues
As of October 31, 2023

% of Year
33.3%

Current Year Activity

	Fund No.	Original Budget	Budget Adjustments	Adjusted Budget	Year-to-Date Actuals	Unrealized Amount	% Realized
General Fund	100	\$93,300,981	\$0	\$93,300,981	\$21,175,153	72,125,828	22.7%
Street Lighting & Landscaping Fund	201	390,597	-	390,597	1,478	389,119	0.4%
Gas Tax Fund	205	1,946,355	36,000	1,982,355	687,541	1,294,814	34.7%
Asset Forfeiture Fund	210	41,800	-	41,800	8,821	32,979	21.1%
Police Safety Grants Fund	211	164,000	-	164,000	133,206	30,794	81.2%
Prop A Fund	230	1,036,405	366,958	1,403,363	285,950	1,117,413	20.4%
Prop C Fund	231	839,596	-	839,596	509,875	329,721	60.7%
AB 2766 Fund	232	47,500	-	47,500	11,546	35,954	24.3%
Measure R Fund	233	2,482,521	-	2,482,521	389,787	2,092,734	15.7%
Measure M Fund	234	3,999,190	-	3,999,190	308,352	3,690,838	7.7%
Measure W Fund	240	25,530,264	-	25,530,264	111,929	25,418,335	0.4%
Capital Improvements Fund	401	2,072,438	199,955	2,272,393	985,749	1,286,644	43.4%
Bond Construction Fund	402	-	-	-	242,805	(242,805)	100.0%
Underground Assessment District Construction	403	-	-	-	129,618	(129,618)	100.0%
Water Fund	501	16,201,728	-	16,201,728	6,387,524	9,814,204	39.4%
Stormwater Fund	502	393,051	-	393,051	138,604	254,447	35.3%
Wastewater Fund	503	3,898,500	-	3,898,500	2,061,596	1,836,904	52.9%
Parking Fund	520	4,457,200	-	4,457,200	1,833,986	2,623,214	41.1%
County Parking Lots Fund	521	1,382,200	-	1,382,200	426,402	955,798	30.8%
State Pier & Parking Lot Fund	522	858,500	-	858,500	369,003	489,497	43.0%
Insurance Reserve Fund	601	8,857,380	-	8,857,380	3,230,552	5,626,828	36.5%
Information Technology Fund	605	4,404,750	-	4,404,750	1,468,256	2,936,494	33.3%
Fleet Management Fund	610	3,204,433	-	3,204,433	961,718	2,242,715	30.0%
Building Maintenance & Operation Fund	615	2,560,994	-	2,560,994	711,402	1,849,592	27.8%
Special Assessment Debt Service	710	714,150	-	714,150	8,961	705,189	1.3%
Special Assessment UAD 19-12 19-14 Fund	711	606,106	-	606,106	7,054	599,052	1.2%
Special Assessment UAD 19-4 Fund	712	337,613	-	337,613	3,683	333,930	1.1%
City Pension Fund	801	264,480	-	264,480	559	263,921	0.2%
Pension Stabilization Fund	804	50,000	-	50,000	(140,080)	190,080	-280.2%
		\$180,042,732	\$602,913	\$180,645,645	\$42,451,032	\$138,194,612	23.5%



City of Manhattan Beach
Fiscal Year 2023-2024 Citywide Expenditures
As of October 31, 2023

% of Year
33.3%

Current Year Activity

	Fund No.	Original Budget	Budget Adjustments*	Adjusted Budget	Year-to-Date		Available Budget	% Utilized
					Actuals	Encumbrances		
General Fund	100	\$92,825,964	\$1,891,395	\$94,717,359	\$26,807,641	\$3,275,433	\$64,634,286	31.8%
Street Lighting & Landscaping Fund	201	695,449	34,916	730,365	167,956	23,150	539,259	26.2%
Gas Tax Fund	205	2,555,138	2,019,024	4,574,162	489,040	1,643,050	2,442,071	46.6%
Asset Forfeiture Fund	210	90,500	-	90,500	11,029	-	79,471	12.2%
Police Safety Grants Fund	211	239,000	30,421	269,421	39,400	-	230,021	14.6%
Prop A Fund	230	763,401	407,731	1,171,132	230,787	407,731	532,614	54.5%
Prop C Fund	231	810,138	2,827,328	3,637,466	2,433,950	422,097	781,419	78.5%
AB 2766 Fund	232	275,673	-	275,673	224	-	275,449	0.1%
Measure R Fund	233	1,060,138	496,778	1,556,916	30,389	536,770	989,757	36.4%
Measure M Fund	234	3,940,138	1,940,625	5,880,763	1,688,840	373,833	3,818,090	35.1%
Measure W Fund	240	26,348,763	590,049	26,938,812	32,969	629,029	26,276,814	2.5%
Capital Improvements Fund	401	7,896,641	3,256,339	11,152,980	1,086,526	1,417,442	8,649,012	22.5%
Bond Construction Fund	402	-	1,899,593	1,899,593	1,157,323	706,652	35,618	98.1%
Underground Assessment District Construction	403	360,000	8,389	368,389	12,612	8,389	347,388	5.7%
Water Fund	501	17,232,256	3,687,505	20,919,761	4,654,591	3,004,675	13,260,495	36.6%
Stormwater Fund	502	3,083,612	176,561	3,260,173	246,292	120,519	2,893,362	11.3%
Wastewater Fund	503	3,755,752	572,476	4,328,228	733,843	528,959	3,065,427	29.2%
Parking Fund	520	4,143,929	298,250	4,442,179	707,374	223,793	3,511,012	21.0%
County Parking Lots Fund	521	1,016,620	1,364	1,017,984	64,839	24,591	928,554	8.8%
State Pier & Parking Lot Fund	522	622,046	2,125,290	2,747,336	128,126	2,161,289	457,921	83.3%
Insurance Reserve Fund	601	8,737,009	38,033	8,775,042	4,279,575	206,097	4,289,370	51.1%
Information Technology Fund	605	4,516,563	650,316	5,166,879	1,630,175	473,071	3,063,633	40.7%
Fleet Management Fund	610	3,281,804	1,713,367	4,995,171	1,079,154	1,534,787	2,381,230	52.3%
Building Maintenance & Operation Fund	615	2,530,593	311,117	2,841,710	732,476	265,242	1,843,992	35.1%
Special Assessment Debt Service	710	706,475	-	706,475	661,814	-	44,661	93.7%
Special Assessment UAD 19-12 19-14 Fund	711	605,807	-	605,807	492,358	-	113,449	81.3%
Special Assessment UAD 19-4 Fund	712	337,363	-	337,363	271,974	-	65,389	80.6%
City Pension Fund	801	196,680	-	196,680	65,151	-	131,529	33.1%
Pension Stabilization Fund	804	-	-	-	-	-	-	-
		\$188,627,452	\$24,976,868	\$213,604,320	\$49,936,428	\$17,986,600	\$145,681,293	31.8%

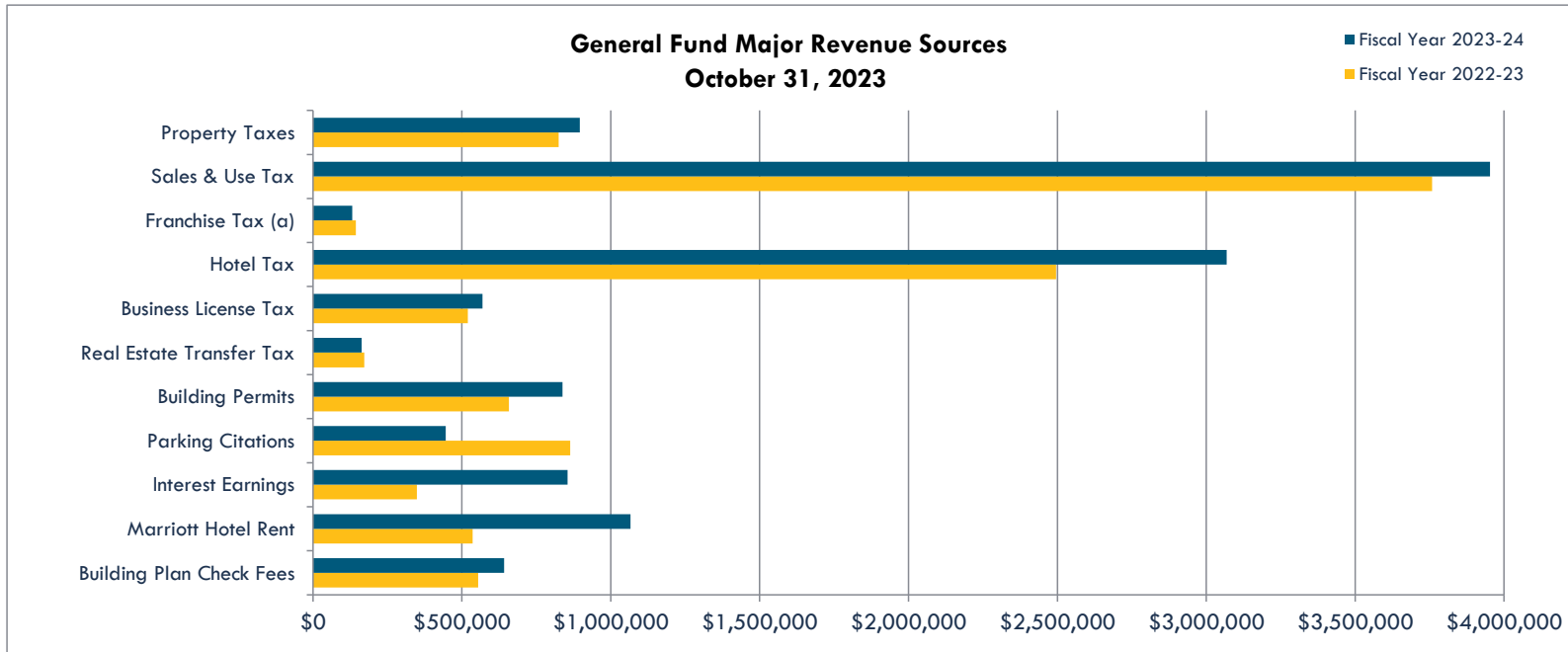
*Budget Adjustments include City Council-approved adjustments during the current year and encumbrances carried forward from the prior year.



City of Manhattan Beach
Fiscal Year 2023-2024 General Fund Major Revenue Trends
October 31, 2023

Percent of Year
33.3%

Major Revenue Accounts	Fund No.	Year-To-Date Actuals						FY 2024	
		2019	2020	2021	2022	2023	2024	Adj Budget	Realized
Property Taxes	100	\$728,979	\$755,718	\$776,468	\$770,228	\$824,597	\$896,048	\$38,049,313	2.4%
Sales & Use Tax	100	3,145,539	3,129,223	2,574,802	3,264,452	3,758,858	3,952,856	9,260,000	42.7%
Franchise Tax (a)	100	167,202	159,776	151,631	147,576	143,854	131,838	1,135,000	11.6%
Hotel Tax	100	1,538,810	1,774,893	711,274	1,698,850	2,495,220	3,068,459	4,025,000	76.2%
Business License Tax	100	324,698	396,282	608,993	903,296	519,882	568,734	3,600,000	15.8%
Real Estate Transfer Tax	100	335,473	412,419	224,754	564,928	172,356	162,856	810,000	20.1%
Building Permits	100	564,972	612,909	536,256	559,167	657,607	837,879	1,532,712	54.7%
Parking Citations	100	772,887	680,689	508,999	672,561	863,450	445,957	1,875,000	23.8%
Interest Earnings	100	446,992	591,874	479,350	320,513	348,793	855,017	637,522	134.1%
Marriott Hotel Rent	100	773,086	953,992	383,402	603,531	535,855	1,066,580	1,350,000	79.0%
Building Plan Check Fees	100	653,120	651,158	624,437	643,222	554,836	641,343	1,755,000	36.5%
Total Major Revenue Accounts		\$9,451,761	\$10,118,934	\$7,580,365	\$10,148,323	\$10,875,308	\$12,627,566	\$64,029,547	19.7%
Over/(Under) Prior Year			667,173	(2,538,568)	2,567,958	726,985	1,752,258		
Percent Change From Prior Year			7.1%	(25.1%)	33.9%	7.2%	16.1%		
Other Revenues		5,684,684	5,656,712	4,596,117	5,199,716	7,216,058	\$8,547,587	29,271,434	29.2%
Total General Fund Revenues		\$15,136,445	\$15,775,646	\$12,176,483	\$15,348,039	\$18,091,366	\$21,175,153	\$93,300,981	22.7%

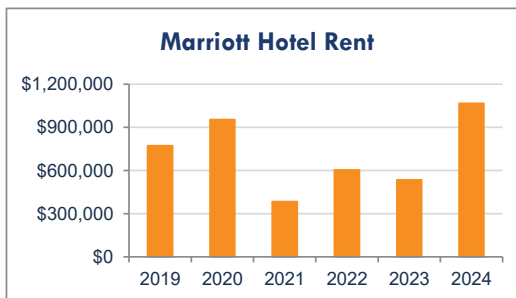
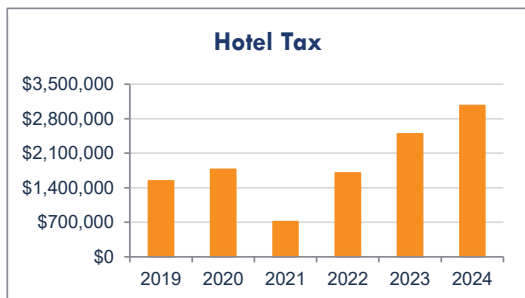
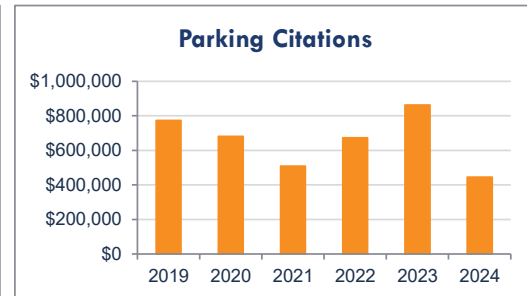
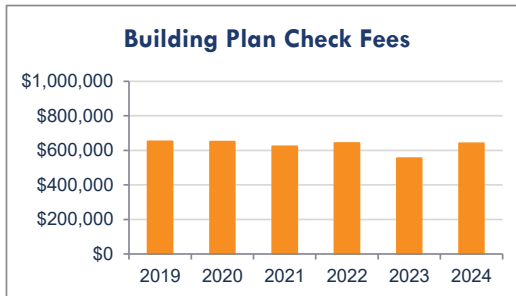
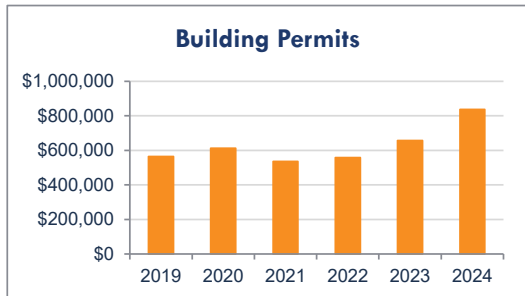
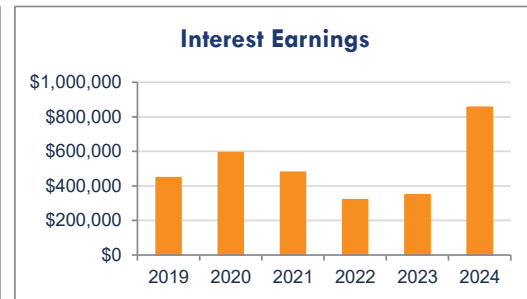
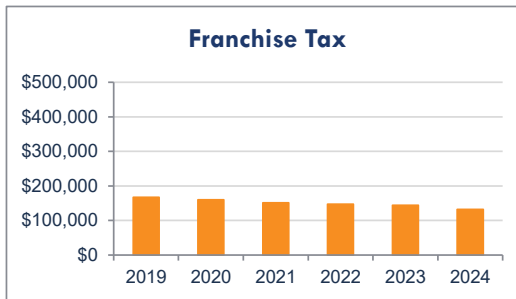
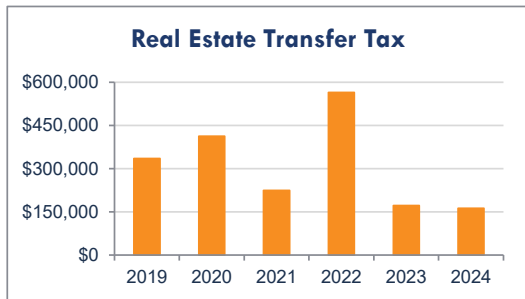
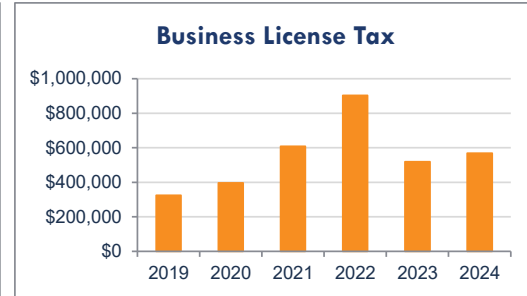
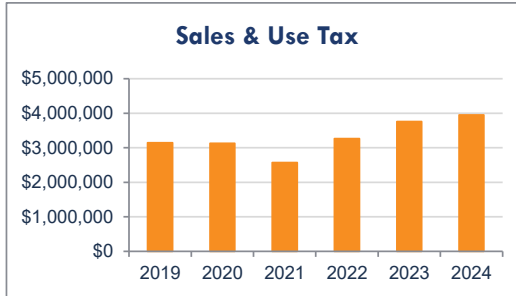
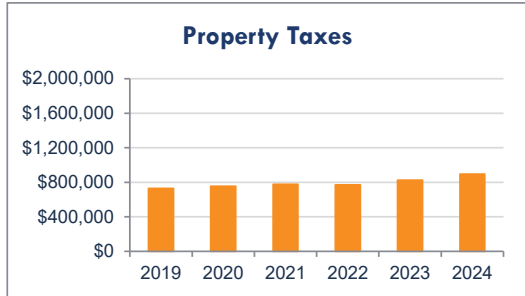


(a) The structure of payments for the some of the franchise fees has changed resulting in lower initial revenues at the beginning of the fiscal year as compared to prior years. This revenue will self adjust throughout the year to better align with prior full-year numbers.



City of Manhattan Beach
 Fiscal Year-To-Date General Fund Trends
 Through October Year-Over-Year

Percent of Year
 33.3%



**Balance Sheet Accounts
As of October 31, 2023**

Account	Description	Established	Purpose	Amount
Parks & Recreation				
100-21501	Tree and Bench Donations	2003	Donations for trees & benches.	\$ 6,797
100-21702	Joslyn Foundation Deposits	1997	Joslyn Center Donations.	6,558
100-21705	Pumpkin Race	2013	Sponsorship revenue/expenses for Pumpkin Race.	25,090
100-21706	Recreation Sponsorships	2017	Sponsorship revenue/expenses for other programs.	24,750
802-21708	Public Art Development Fees	2003	Funded through a portion of development fees. Used to fund Public Art.	1,759,477
Police				
100-21410	Reserve Force Deposits	1997	Funded through donations. Reserve Officer equipment, training, etc.	\$ 1,945
100-21405	K9 Deposits	1997	Funded through donations. Used for K9 Equipment.	530
100-21408	Victims Assistance Deposits	1997	Property that is forfeited permanently and goes to auction. The funds are deposited for Victims Assistance programs.	3,423
100-21411	Every 15 Minutes Deposits	1998	Funded through donations. Every 15 Minutes Program. In conjunction with Mira Costa (MBUSD).	4,356
100-21409	Explorer Scout Deposits	1997	Funded through donations. Explorer events, special equipment, etc.	12,585
100-21404	Neighborhood Watch Deposits	1997	Property that is forfeited permanently and goes to auction. The funds are deposited for various Neighborhood Watch uses.	11,225
100-21407	Equipment Deposits	1997	Funded through donations. Used for Various Special Equipment.	24,198
100-21412	Graux Trust (Police)	2014	Donation gift from the Graux Trust.	8,893
100-21402	Inmate Welfare Deposits	1997	Funds generated through inmate telephone in the jail. Use for Inmate welfare, i.e. new mattresses, periodicals, newspapers, books, etc.	46,415
Fire				
100-21453	Paramedic Trust Deposits	1997	Donations to Fire operations.	\$ 7,295
100-21451	Graux/Rotary Trust (Fire)	2014	Donation gift from the Graux Trust.	1,756
100-21452	Customer Deposits	2012	Donations from public to fire services.	1,063
100-21913	Fire Technology Replacement	2020	Funded through a fee of 5% of annual Fire Inspection Permits. The purpose of this technology fee is to recover the cost associated with replacement of existing system, upgrades to the existing and new system, and maintenance costs associated with the system.	32,309
Community Development				
100-21602	Tree Penalties for Illegal Removal	2018	Fines for illegally removed trees for the planting of new trees.	\$ 77,355
100-21601	General Plan Maintenance	2010	Surcharge taken from permits to fund updates for General Plan (i.e., Mobility Plan, Housing Element, Land Use, etc.).	531,645
100-21608	Seismic Fees	1998	A portion of this fee is paid quarterly by the City to the Department of Conservation (DoC) along with a quarterly report. Balance of fee is used for data utilization, and seismic education incorporating data interpretations from data of the strong-motion instrumentation program.	70,744
100-21609	Congestion Management Plan	2002	Fees that are charged for projects that increase traffic; Planning correction checklist has section for CMP, where a spreadsheet calculates trips/cost; county program on hold for number of years. Funds are to be used for transportation improvements.	68,440
100-21610	BSA Revolving Fund Fee	2009	Fee identified during Building permit application. A portion of this fee is paid quarterly by the City to the CA Building Standards Commission (BSC) along with a quarterly report. Fee paid to BSC based on calculations in the report.	19,180
100-21616	SB 1186 Disability Access & Education	2014	Fee charged on permits, a portion of which is available yearly for Building Inspector training on Title 24, CASp (Certified Access Specialist Program), and SB 1186.	106,888
100-21914	Energov Technology Replacement	2020	Funded through a fee of 3% of Building Permits. The purpose of this technology fee is to recover the cost associated with replacement of existing system, upgrades to the existing and new system, and maintenance costs associated with the system.	80,336
Information Technology				
100-21311	Time Warner PEG Deposit	1997	Public, Education, and Governmental Access. MBtv (city government cablecast and webcast) capital expenditures, repairs and upgrades.	\$ 520,496
100-21312	Verizon PEG Deposit	2007	Public, Education, and Governmental Access. MBtv (city government cablecast and webcast) capital expenditures, repairs and upgrades.	330,441

Total \$ 3,784,192



CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Lisa Jenkins, Human Resources Director

SUBJECT:

Consideration of a Resolution Approving City Contributions to Medical Insurance for the Manhattan Beach Mid-Management Employees Association, Unrepresented Employees and Officials (Human Resources Director Jenkins).

ADOPT RESOLUTION NO. 23-0160

RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. 23-0160, approving the City contributions to health insurance for the Manhattan Beach Mid-Management Employees Association (MBMEA), Unrepresented Employees and Officials for 2024 and approving a calculation formula for future years.

FISCAL IMPLICATIONS:

The costs associated with this change to the City's medical insurance contribution are estimated to be approximately \$203,000 per year. Sufficient funds are available in the Budget for the remaining months of Fiscal Year 2023-2024. Future years will be budgeted accordingly.

BACKGROUND:

The City provides medical insurance for its employees through the health program available through the California Public Employees Retirement System (CalPERS). The health program is governed by the Public Employees' Medical & Hospital Care Act (PEMHCA), with the goal of the City benefitting from the experience of a much larger pool of insured employees than would otherwise be available. Accordingly, the plans available for employees to enroll in are limited to those offered by CalPERS. The City provides a contribution to medical insurance for each of its employee groups. The City contribution is generally tied to a particular plan and cost sharing formula. For example, all Teamsters employees contribute at least 3% towards their medical insurance costs, with the City's contribution to medical insurance capped at 97% of the Kaiser

premiums, depending on the level of coverage.

Prior to calendar year 2022, the City provided a contribution for its MBMEA and unrepresented employees (and by extension elected officials) that was equivalent to 95% of the premiums for a PPO plan called PERS Choice, based upon the level of coverage. In the summer of 2021, the City was notified that CalPERS was changing some of its longstanding primary PPO plans, effective in 2022. Specifically, PERS Choice and PERS Care would be merging into a new plan, PERS Platinum. Because this happened during the term of a Memorandum of Understanding (MOU) with an end date of December 31, 2021, the City and the MBMEA met to discuss the changes and how they would impact the City's contribution to medical insurance. As a result of these discussions, the City provided a flat dollar medical contribution for 2022 equivalent to 95% of the "new" PERS Platinum plan, without the cost-sharing provision that existed in prior agreements. Accordingly, employees choosing a less expensive plan could have their plan fully paid for by the City.

DISCUSSION:

In 2022, the PPO plans that the City had been accustomed to for many years merged into a new plan called PERS Platinum. In order to have an opportunity to see how the plan would respond and monitor the City's contribution, the City Council authorized a flat dollar contribution in calendar year 2022, and provided reopeners on medical insurance in each year of the MOU with MBMEA. The City Council provided the same contribution for unrepresented employees, and also tied the 2022 flat dollar contribution to 95% of the PERS Platinum plans.

In 2022, the City and MBMEA met and conferred over City contributions to health insurance, and the flat dollar contribution remained the same for 2023. As a result of increases to health plan premiums in many available medical plans, the City contribution to medical insurance for other bargaining units (Police Officers, Police Management, Fire Association, and Teamsters) in 2024 would be greater than the current contribution for MBMEA, and unrepresented employees and officials, the groups which include the executive and management positions in the City. Additionally the premium rate increases from 2022 to 2024 included a 31.05% increase to the PERS Platinum plan, and significant increases to other plans. Analyzing these factors, as well as the impact that medical insurance costs have on the City's ability to remain an attractive employer in the labor market, the City Council authorized a change to the medical insurance contribution for MBMEA, which would also authorize increases for unrepresented employees and elected officials. The goal of these changes is to return to the cost-sharing provision that previously existed, but utilize the current PERS Platinum plan for the formula in future years.

In recognition of the fact that open enrollment for medical insurance has ended, the City Council agreed to continue flat dollar contributions for calendar year 2024, which would enable employees who selected some health plans to have their premiums fully paid for. Beginning in 2025, the City contribution to medical insurance will be 95% of the premium, and the employee's contribution will be 5%, capped at 95% of the PERS Platinum plan (currently the most expensive plan available). The attached resolution memorializes the authorization for these changes, and also authorizes the City Manager to enter into a side letter with the MBMEA memorializing these changes.

PUBLIC OUTREACH:

Staff determined that additional public outreach is not required for this issue.

LEGAL REVIEW:

Special Counsel has approved the resolution as to form.

ATTACHMENT:

1. Resolution No. 23-0160

RESOLUTION NO. 23-0160

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING CITY CONTRIBUTION TO MEDICAL INSURANCE FOR THE MANHATTAN BEACH MID-MANAGEMENT EMPLOYEES ASSOCIATION (MBMEA) AND FULL-TIME UNREPRESENTED EMPLOYEES AND OFFICIALS

WHEREAS, medical insurance for all City employees is provided through the California Public Employees Retirement System (CalPERS) Public Employees Medical and Hospital Care Act (PEMHCA), and the medical plans available to City employees are dependent upon those offered by CalPERS;

WHEREAS, prior to calendar year 2022, the City contribution to medical insurance was equivalent to ninety-five percent (95%) of the employee's premium for employees who enroll in a CalPERS medical plan, up to a maximum contribution of 95% of the CalPERS PERS Choice medical plan, depending on the selected coverage level;

WHEREAS, in 2021, CalPERS announced that for calendar year 2022, CalPERS would no longer be offering the PERS Choice and PERS Care medical plans to agencies who contract with CalPERS for medical insurance. In conjunction with eliminating the PERS Choice and PERS Care plans, CalPERS announced that it would be merging both plans into a new "PERS Platinum" plan for 2022;

WHEREAS, the City and the Manhattan Beach Mid-Management Employees Association MBMEA met in 2021 to determine the impacts of these changes to the City's contribution to medical insurance, as it was tied to a plan that would no longer be in existence;

WHEREAS, as a result of these meetings, the City's contribution for 2022 was set at a flat dollar contribution equivalent to 95% of the PERS Platinum rates;

WHEREAS, the City and the MBMEA ("the parties") are parties to a Memorandum of Understanding ("MOU") with a term of January 1, 2022 to June 30, 2025 and in this MOU the parties agreed to a reopener on the City's contribution to medical insurance during the term of the contract;

WHEREAS, Article 6 Section 1 of the parties' MOU outlines the City's contributions to medical insurance based upon the employee's level of coverage;

WHEREAS, Article 6, Section 3, of the parties' MOU provides for a reopener on the City contribution to medical insurance in each year of the contract; and

WHEREAS, the Full-Time Unrepresented Employees Compensation Plan Article 4, provides that the unrepresented employees will receive the same increase to the City contribution to medical insurance as is provided to the MBMEA.

THEREFORE, THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council hereby authorizes and approves the City contribution to medical insurance for employees in the Manhattan Beach Mid-Management Association (MBMEA), full time unrepresented employees, and elected officials, as follows:

1. Effective January 1, 2024, the City will provide a flat dollar contribution to medical insurance for employees who enroll in a CalPERS medical plan. The flat dollar maximum contribution to medical insurance will be as follows, depending on the employee's actual enrollment level (employee only, two-party or family coverage):

Employee only - \$1,131.47

Two-Party - \$2,149.79

Family - \$2,794.73

2. Effective January 1, 2025 and thereafter, the City will provide a contribution to insurance as follows:

Employees who enroll in a CalPERS medical plan will receive a City contribution to medical insurance of 95% of the PERS Platinum premium, at the level the employee is enrolled (either employee only, employee with one dependent, or employee with two or more dependents).

If an employee chooses a plan that is less costly than the PERS Platinum plan, the City will pay 95% of the premium for the plan chosen with the employee paying for the remainder of the plan chosen (5%). If an employee chooses a plan that is more costly than 95% of the PERS Platinum premium rate, the employee will pay the difference between the actual premium and the cost of 95% of the PERS Platinum premium rate for the selected coverage level.

The City's contribution is inclusive of (not in addition to) the CalPERS statutory minimum per Government Code section 22892.

SECTION 2. The City Council authorizes the City Manager to enter into a side letter to the parties' MOU memorializing the terms of this authority.

SECTION 3. The Human Resources Director or her designee shall administer the terms of this resolution.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution.

ADOPTED on December 5, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk



CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Erick Lee, Public Works Director
Katherine Doherty, City Engineer
Helen Shi, Senior Civil Engineer

SUBJECT:

Consideration of a Resolution to Accept a Grant of Easement Deed and Temporary Construction Easement Deed for the Property at 1101 North Sepulveda Boulevard for the Manhattan Beach Boulevard and Sepulveda Boulevard Intersection Improvement Project (Public Works Director Lee).

ADOPT RESOLUTION NO. 23-0161

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 23-0161:

- 1) Accepting a Grant of Easement Deed Concerning Real Property for 1101 N. Sepulveda Boulevard, dated October 10, 2023, made by Anne-Merelie Murrell, as sole trustee of Murrell Living Trust;
- 2) Accepting a Temporary Construction Easement Deed for 1101 N. Sepulveda Boulevard, dated October 10, 2023, made by Anne-Merelie Murrell, as sole trustee of Murrell Living Trust; and
- 3) Authorizing the City Manager and/or his or her designee to accept the Grant of Easement Deed and Temporary Construction Easement on behalf of the City and any other forms necessary, and to record said grant of rights.

FISCAL IMPLICATIONS:

The Manhattan Beach Boulevard and Sepulveda Boulevard Intersection Improvement Project (Project) is included in the City's Capital Improvement Program (CIP) Plan with a budgeted cost of \$2,460,593 in the Proposition C Fund. Funding for this project consists of a \$2,046,000 grant from the Measure R South Bay Highway Program and \$414,593 in Proposition C local return funds.

Based on the Appraisal Report prepared by Interwest, in March and April 2023, the value of the Grant of Easement Deed and Temporary Construction Easement Deed is \$284,000 for the property located at 1101 N. Sepulveda Boulevard, which is within the project's budget. A Budget and Expenditures Summary Report is provided as an attachment.

BACKGROUND:

On September 1, 2015, City Council approved a \$980,000 Measure R South Bay Highway Program Funding Agreement with Los Angeles County Metropolitan Transportation Authority (Metro) for the intersection's turn movement improvements at Manhattan Beach Boulevard and Sepulveda Boulevard. The improvements include providing dual left-turn pockets in the following directions:

- Eastbound Manhattan Beach Boulevard to northbound Sepulveda Boulevard
- Northbound Sepulveda Boulevard to westbound Manhattan Beach Boulevard
- Westbound Manhattan Beach Boulevard to southbound Sepulveda Boulevard

This intersection is located in an area of the City with limited on-street parking and moderately heavy pedestrian usage. The design and subsequent construction take into account the need for the lowest possible impact on the livelihood of the residents, visitors, and business owners. A five foot dedication shall be provided along the property frontage at 1101 N. Sepulveda Boulevard for the future widening of the right-of-way for an additional left-hand turn pocket for traffic traveling north onto Manhattan Beach Boulevard at the southwest corner of Manhattan Beach Boulevard and Sepulveda Boulevard. In addition, the Project is required to provide an additional corner cut-off dedication to accommodate an Americans with Disabilities Act (ADA) compliant access ramp, pedestrian access area, and future street improvement at the corner of Sepulveda Boulevard and 11th Street.

DISCUSSION:

Sepulveda Boulevard is State Route 1 through the City of Manhattan Beach and therefore, Caltrans is a partner in the review and approval of this Project. The additional right-of-way was determined to be necessary during the Caltrans plan check and permitting process along the property frontage at 1101 N. Sepulveda Boulevard.

The "Property Owner," referring to Anne-Merelie Murrell, as sole trustee of Murrell Living Trust dated November 1, 1989, has agreed to a five foot dedication along Sepulveda Boulevard with corner cuts at the corner of 11th Street and Sepulveda Boulevard, and Temporary Construction Easement for up to 36 months to the City at a cost of \$284,000, as shown in the attachments to this report entitled Agreement Containing Grant of Easement Deed and Temporary Construction Easement Deed Concerning Real Property for 1101 N. Sepulveda Boulevard.

The attached Resolution allows the City to accept the dedication and temporary construction easement for the construction of the Project. Should the City Council approve the Agreement, then the Grant of Easement Deed and Temporary Construction Easement Deed will be accepted, executed and recorded with the Los Angeles County Recorder's Office.

The Project team is in the project planning/design process, including the proposed right-of-way

acquisition of other property rights from properties at the northwest, northeast, and southwest corners of Manhattan Beach Boulevard and Sepulveda Boulevard. If agreements are reached between those property owner and the City, City staff will submit those agreements for the City Council discussion and approval.

PUBLIC OUTREACH:

The Project has been discussed with the property owners within and adjacent to the Project area. Grant of Easement Deed and Temporary Construction Easement were agreed to by the Property Owner of 1101 N. Sepulveda Boulevard.

This Project was discussed at September 1, 2015, January 3, 2017, August 18, 2020, and August 24, 2021, January 17, 2023, and February 21, 2023 City Council meetings. Staff will continue to maintain regular communication with the Property Owner to keep them abreast of the Project schedule and impacts during the design and construction phases of this Project.

Public outreach to residents and businesses related to the design and construction impacts will kick-off as the Project nears the end of right-of-way acquisition and timeline are clearer. Regional outreach will also be required to inform South Bay commuters of the potential impacts.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed acceptance of easement activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a “project” as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no further environmental review is necessary.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Resolution No. 23-0161
2. Grant of Easement Deed and Temporary Construction Easement Deed - 1101 N. Sepulveda Boulevard
3. Budget and Expenditures Summary
4. Location Map

RESOLUTION NO. 23-0161

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL ACCEPTING GRANT OF EASEMENT DEED AND TEMPORARY CONSTRUCTION EASEMENT DEED FOR PROPERTY AT 1101 N. SEPULVEDA BOULEVARD FOR THE MANHATTAN BEACH BOULEVARD AND SEPULVEDA BOULEVARD INTERSECTION IMPROVEMENT PROJECT

THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City of Manhattan Beach (“City”) has undertaken an intersection improvement project (“Project”) at Manhattan Beach Boulevard and Sepulveda Boulevard. In connection with this Project, the City requires below easements, in and to portion of the property commonly known as 1101 N. Sepulveda Boulevard, owned by Anne-Merelie Murrell, as sole trustee of Murrell Living Trust dated October 10, 2023 (“Owner”), in the City of Manhattan Beach:

1. Grant of Easement Deed Concerning Real Property for 1101 N. Sepulveda Boulevard, dated October 10, 2023, made by Anne-Merelie Murrell, as sole trustee of Murrell Living Trust. [See Attachment A]
2. Temporary Construction Easement Deed for 1101 N. Sepulveda Boulevard, dated October 10, 2023, made by Anne-Merelie Murrell, as sole trustee of Murrell Living Trust. [See Attachment B]

SECTION 2. Owner authorized and approved the City to execute Grant of Easement Deed that grants certain property rights to the City, true and correct copies of the Owner Agreement Containing Grant of Easement Deed, and Temporary Construction Easement Deed are attached hereto as Attachments A & B and are hereby incorporated by this reference.

SECTION 3. The City Council hereby accepts and consents to the Owner conveyance of the above referenced Grant of Easement Deed, and Temporary Construction Easement rights to the City for public purposes.

SECTION 4. The City Council hereby authorizes the City Manager and/or his or her designee to cause the City to accept the Owner conveyance of the above referenced Grant of Easement Deed, and Temporary Construction Easement rights on behalf of the City and to record said grant of rights to the City by executing Owner Agreement Containing Grant of Easement Deed, and Temporary Construction Easement Deed with the Owner (See Attachments A & B) and any other forms necessary to effectuate the acceptance and recordation of the Grant of Easement Deed and Temporary Construction Easement rights.

SECTION 5. The City Clerk shall certify to the passage and adoption of this resolution.

ADOPTED on December 5, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

RIGHT OF WAY CONTRACT – STATE HIGHWAY

RW 8-3 (Rev. 6/1995)

DIST 07	CO LA	RTE SR 1	POST 22.895	EXP AUTH
			DATE	

GRANTOR

Anne-Merelie Murrell, as sole trustee of Murrell Living Trust dated November 1, 1989, as amended and restated

Grant of Easement Deed attached as Exhibit “A” and a Temporary Construction Easement Deed (TCE) attached as Exhibit “B” covering the property particularly described in the above instruments has been executed and delivered to **Interwest Consulting Group**, Right of Way Consultant for the City of Manhattan Beach by **Anne-Merelie Murrell, as sole trustee of Murrell Living Trust dated November 1, 1989, as amended and restated (“Grantor”)**.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. (A) The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the City of Manhattan Beach (“City/Grantee”) all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
- (B) Grantee requires said property described in **Exhibits “A” and “B”** to provide the continuity of pedestrian accessible facilities along Manhattan Beach Blvd. and Sepulveda Blvd. by upgrading and reconstructing existing sidewalks, driveways, and curb ramps to meet current Americans with Disabilities Act (ADA) standards, for City/State highway purposes, a public use for which Grantee has the authority to exercise the power of eminent domain. Grantor(s) is compelled to sell, and Grantee is compelled to acquire the property.

Both Grantor(s) and Grantee recognize the expense, time, effort, and risk to both parties in determining the compensation for the property by eminent domain litigation. The compensation set forth herein for the property is in compromise and settlement, in lieu of such litigation.

2. The City shall:

- (A) Pay the undersigned grantor(s) the sum of **Two hundred Eighty-Four Thousand Dollars and 0/100 (\$284,000)** for the property or interest conveyed by above document(s) (including all trees, growths (growing or that may hereinafter grow) and road building materials within said property being conveyed including the right to take water, together with the right to use same in such manner and at such location as the State of California may deem proper, needful or necessary for the construction, reconstruction, improvement or maintenance of the highway) when title to said property vests in the City free and clear of all liens, encumbrances, assessments, easements and leases (recorded and/or unrecorded) and taxes, except:
 - a. Taxes for the tax year in which this escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the close of escrow.
 - b. Covenants conditions, restrictions and reservations of record, or contained in the above-referenced document.

RIGHT OF WAY CONTRACT – STATE HIGHWAY

RW 8-3 (Rev. 6/1995)

-
- c. Easements or rights of way over said land for public or quasi-public utility or public street purposes, if any.
 - d. Mineral of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relation thereto, whether or not appearing in the Public Records.
 - (B) Pay all escrow and recording fees incurred in this transaction and, if title insurance is desired by the City, the premium charged therefor. Said escrow and recording charges shall not, however, include documentary transfer tax.
 - (C) Have the authority to deduct and pay from the amount shown on Clause 2(A) above, any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid nondelinquent assessments which have become a lien at the close of escrow.
 3. Permission is hereby granted to the City or its authorized agent to enter upon Grantor's land where necessary within the certain area shown in the Temporary Construction Easement as Exhibit "B" attached hereto and made a part hereof, for the purpose of providing the continuity of pedestrian accessible facilities along Manhattan Beach Blvd. and Sepulveda Blvd. by upgrading and reconstructing existing sidewalks, driveways, and curb ramps to meet current Americans with Disabilities Act (ADA) standards.
 4. This Temporary Construction Easement shall commence upon the date the project receives right of way certification by Caltrans and terminate no later than thirty-six (36) months following Caltrans certification or completion of the project, whichever occurs first.
 5. The undersigned Grantor(s) warrant(s) that they are owner(s) in fee simple of the property affected by this Temporary Easement as described in **Clause 3 & 4** above and that they have the exclusive right to grant this Temporary Construction Easement.
 6. It is understood and agreed by and between the parties hereto that the payment in Clause 2 (A) includes the sum of **Two Hundred Eighty-Four Thousand Dollars (\$284,000) for the Grant of Easement, Temporary Construction Easement, and Improvements.**
 7. Permission is hereby granted to City or its authorized agent to enter on my/our land, where necessary, to (relocate or reconstruct driveway approaches, sidewalks, utilities, etc.), as shown on the attached map(s) and as described in **Clause Six (6)** of this Contract. I (we) understand and agree that after completion of the work described in **Clause Six (6)**, said facility(ies) will be considered as my/our sole property and I (we) will be responsible for its/their maintenance and repair.
 8. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the subject property by the City, including the right to remove and dispose of improvements, shall commence on the date the amount of funds as specified in Clause 2(A) herein are deposited into the escrow controlling this transaction. The amount shown in Clause 2(A) herein includes, but is not limited to, full payment for such possession and use, including damages, if any, from said date.
 9. The Grantor agrees that no improvements, other than those already on the property, shall be placed thereof; and the planting of any crops, trees, or shrubs or alterations, repairs, or additions to existing

RIGHT OF WAY CONTRACT – STATE HIGHWAY

RW 8-3 (Rev. 6/1995)

improvements which may hereafter be placed thereon are at Grantor's risk and without expectation of payment if removed by the City.

10. The parties to this contract shall, pursuant to Section 21.7(a) of Title 49, Code of Federal Regulations, comply with all elements of Title VI of the Civil Rights Act of 1964. This requirement under Title VI and the Code of Federal Regulations is to complete the USDOT Non-Discrimination Assurance requiring compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Parts 21 and 28 C.F.R. Section 50.3.

Further, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that is the subject of this contract.

11. In consideration of the City's waiving the defects and imperfections in the record title, as set forth in Paragraph 2(a), the undersigned Grantor covenants and agrees to indemnify and hold the City of Manhattan Beach harmless from any and all claims that other parties may make or assert on the title to the premises. The Grantor's obligation herein to indemnify the City shall not exceed the amount paid to the Grantor under this contract.
12. All work done under this agreement shall conform to all applicable building, fire and sanitary laws, ordinances, and regulations relating to such work, and shall be done in a good and workmanlike manner. All structures, improvements or other facilities, when removed, and relocated, or reconstructed by the City, shall be left in as good condition as found.
13. Grantor warrants that there are no oral or written leases on all or any portion of the property exceeding a period of one month, and the grantor agrees to hold City harmless and reimburse City for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of grantor for a period exceeding one month.

14. It is agreed that the net proceeds of the amount payable under Clause 2(A) above shall be paid as follows:

Anne-Merelie Murrell, as Trustee of the Murrell Living Trust, dated November 1, 1989

This transaction will be handled through an internal escrow with the Orange Coast Title Company:

Orange Coast Title Co.
Escrow Officer Claudia Holcomb
(909) 987-5433, ext. 1511
Claudiah@octitle.com
2151 E. Convention Center Way, Suite 102
Ontario, CA 91764

RIGHT OF WAY CONTRACT – STATE HIGHWAY

RW 8-3 (Rev. 6/1995)

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

GRANTOR:

**Anne-Merelie Murrell, as sole trustee of Murrell Living Trust
dated November 1, 1989, as amended and restated**

By: Anne Merelie Murrell

Date: 10-10-2020

Print Name: Anne-Merelie Murrell

Title: Trustee

GRANTEE:

CITY OF MANHATTAN BEACH, a municipal corporation of the State of California,

By: _____

Date: _____

Print Name: _____

Title: _____

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED.

EXHIBIT “A”

Grant of Easement Deed

Recorded at the request of
City of Manhattan Beach

When Recorded Mail to:

City of Manhattan Beach
Engineering Department
Attn: Helen Shi, Sr. Civil Engineer
3621 Bell Avenue
Manhattan Beach, CA 90266

Space above this line for Recorder's Use

APN 4170-026-022

GRANT OF EASEMENT

District	County	Route	Postmile	Number
7	LA	SR 1	22.895	

This instrument is exempt from Filing Fees (Govt. Code § 6103), Recording Fees (Govt. Code § 27383), and from Documentary Transfer Tax (Rev. & Tax Code § 11922).

Anne-Merelie Murrell, as sole trustee of Murrell Living Trust dated November 1, 1989, as amended and restated hereinafter called ("**Grantor**"), hereby grants to the **City of Manhattan Beach, a municipal corporation of the State of California, ("Grantee")**, and their assigns, a permanent exclusive easement for public use for sidewalk, roadway and utility purposes, upon, over and across that real property in the City of Manhattan Beach, County of Los Angeles, State of California, described as follows:

See Exhibit "A" and "B", attached.

The GRANTOR hereby further grants to STATE all trees, growths (growing or that may hereinafter grow) and road building materials within the right of way including the right to take water, together with the right to use same in such manner and at such location as the STATE may deem proper, needful or necessary for the construction, reconstruction, improvement or maintenance of the highway.

The GRANTOR, for itself and its successors and assigns, hereby waives any and all claims for damages to GRANTOR's remaining property contiguous to the right of way conveyed by reason of the location, construction, landscaping or maintenance of the highway.

**GRANTOR: Anne-Merelie Murrell, as
sole trustee of Murrell Living Trust
dated November 1, 1989, as amended
and restated**

Date: 10-10-2023

By Anne-Merelie Murrell

Print Name: Anne-Merelie Murrell

Title: Trustee



August 16, 2022
BKF Job No: 20212007-50

EXHIBIT "A"
Legal Description

BEING A PORTION OF LOT 24, IN BLOCK 3 OF TRACT NO. 142, IN THE CITY OF MANHATTAN BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 24, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF A PUBLIC RIGHT-OF-WAY EASEMENT PER RECORDED DOCUMENT IN BOOK 54835, PAGES 259 THROUGH 260, DATED JUNE 6, 1957 IN SAID COUNTY RECORDER;

THENCE ALONG THE EAST LINE OF SAID LOT 24, NORTH 00° 01' 45" EAST, 125.20 FEET;

THENCE ALONG THE NORTH LINE OF SAID LOT 24, NORTH 89° 48' 00" WEST, 4.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE LEAVING SAID NORTH LINE, SOUTH 00° 01' 45" WEST, 112.15 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY, WITH A RADIUS OF 13.00 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 82° 14' 49", A DISTANCE OF 18.66 FEET;

THENCE NORTH 00° 05' 39" WEST, 17.55 FEET;

THENCE NORTH 38° 26' 49" EAST, 7.38 FEET;

THENCE NORTH 00° 01' 45" EAST, 103.64 FEET TO THE NORTH LINE OF SAID LOT 24;

THENCE ALONG SAID NORTH LINE SOUTH 89° 48' 00" EAST, 5.00 FEET TO THE TRUE POINT OF BEGINNING;

CONTAINING AN AREA OF APPROXIMATELY 712 SQUARE FEET.

AS SHOWN ON THE ATTACHED EXHIBIT "B" AND BY THIS REFERENCE MADE PART HEREOF.

4675 MacArthur Ct
Suite 400
Newport Beach
California 92660
phone 949.526.8460
fax 949.526.8499
www.bkf.com

Sheet 1 of 2



August 16, 2022
BKF Job No: 20212007-50

**SUBJECT TO EASEMENTS, COVENANTS, CONDITIONS, RESTRICTIONS,
RESERVATIONS, RIGHTS, RIGHTS-OF-WAY, AND OTHER MATTERS OF
RECORD, IF ANY.**

A handwritten signature in blue ink, appearing to read 'Davis Thresh', written over a horizontal line.

Davis Thresh, P.L.S. No. 6868

8-16-2022

Dated

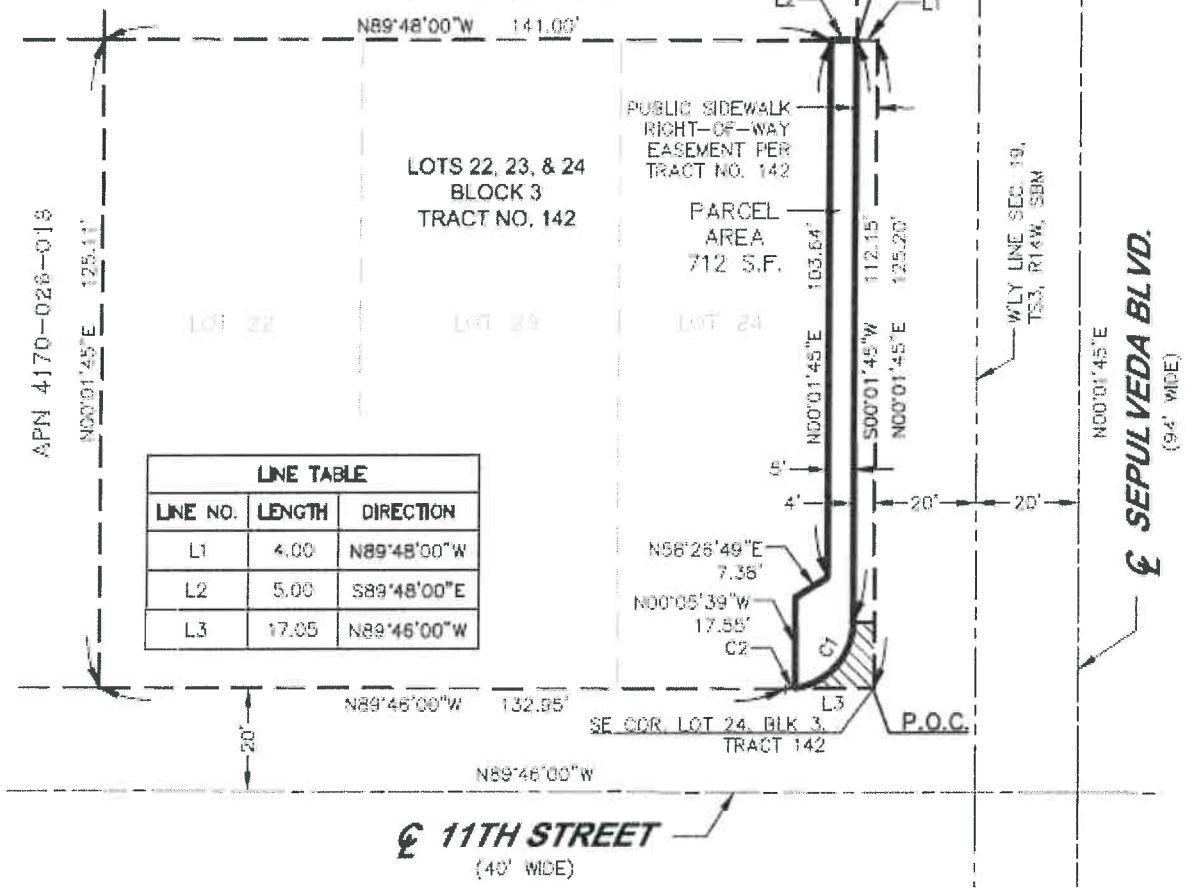


4675 MacArthur Ct
Suite 400
Newport Beach
California 92660
phone 949.526.8460
fax 949.526.8499
www.bkf.com

Sheet 2 of 2

NOTE: BEARINGS SHOWN
HEREON ARE PER TRACT
MAP NO. 142.


APN 4170-026-022

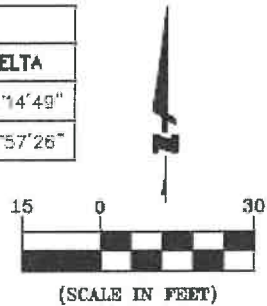


LINE TABLE		
LINE NO.	LENGTH	DIRECTION
L1	4.00	N89°48'00\"W
L2	5.00	S89°48'00\"E
L3	17.05	N89°46'00\"W

CURVE TABLE			
CURVE NO.	LENGTH	RADIUS	DELTA
C1	18.66	13.00	082°14'49\"
C2	1.81	13.00	007°57'26\"

LEGEND

-  = RIGHT-OF-WAY EASEMENT PER DOCUMENT 54835/258-270
- P.O.C. = POINT OF COMMENCEMENT
- T.P.O.B. = TRUE POINT OF BEGINNING
- = CENTERLINE
- - - = SECTION LINE
- — — = PARCEL LIMITS
- - - - - = LOT LINE



APN: 4170-026-022
1101 N. SEPULVEDA BLVD
IN THE CITY OF MANHATTAN BEACH,
COUNTY OF LOS ANGELES,
STATE OF CALIFORNIA.



4675 MACARTHUR COURT
SUITE 400
NEWPORT BEACH, CA 92660
949-526-8460
949-526-8499 (FAX)

Subject EXHIBIT "B"
ACQUISITION PLAT
Job No. 20212007-50
By IF Date 8/16/22 Chkd. NP
SHEET 1 OF 1

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)
) ss.
COUNTY OF Los Angeles)

On October 10, 2023, before me, Jess Hurtarte, Notary Public, personally appeared Anne-Merdelie Murrell, 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 Jess Hurtarte (Seal)



CERTIFICATE OF ACCEPTANCE
(California Government Code Section 27281)

This is to certify that the interest in real property conveyed to the City of Manhattan Beach by that certain Grant of Easement Deed dated October 10, 2023, executed by **Anne-Merelie Murrell, as sole trustee of Murrell Living Trust dated November 1, 1989, as amended and restated**, hereby accepted by the undersigned office on behalf of the City of Manhattan Beach pursuant to the authority conferred by the City of Manhattan Beach at the City Council closed session meeting held on _____, 2023, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2023

Sign: _____

Print Name: _____

Title: _____

EXHIBIT “B”

Temporary Construction Easement

**RECORDING REQUESTED BY,
AND WHEN RECORDED RETURN TO:**

City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266
Attn: City Clerk

APN: 4170-026-022

[SPACE ABOVE FOR RECORDER'S USE ONLY]

TEMPORARY CONSTRUCTION EASEMENT DEED

This transfer is exempt from Documentary Transfer Tax as a conveyance for no consideration, and is exempt from Recording Fees pursuant to California Government Code Section 6103.

Anne-Merelie Murrell, as sole trustee of Murrell Living Trust dated November 1, 1989, as amended and restated, hereinafter referred to as "GRANTOR," is the owner of that real property in the City of Manhattan Beach, County of Los Angeles, State of California, on the property commonly known as 1101 N. Sepulveda Blvd., Manhattan Beach, CA 90266, identified as County Assessor's Parcel Number 4170-026-022, and described in Exhibit "A" attached hereto and incorporated by reference herein (hereinafter referred to as the "Property").

For a valuable consideration, receipt of which is hereby acknowledged, GRANTOR hereby grants to the City of Manhattan Beach, a municipal corporation in the County of Los Angeles, State of California, and its contractors, successors and assigns, referred to collectively as "GRANTEE", a thirty-six month Temporary Construction Easement for the Sepulveda Blvd. & Manhattan Beach Blvd. Project (Project) and to utilize said Temporary Construction Easement for all project related activities and purposes in, on, over, under, through, and across that certain parcel of land described and depicted in Exhibits "B" and "C", attached hereto and incorporated herein ("Temporary Construction Easement Area").

Such use shall include the right to temporarily place equipment, materials and vehicles, and pile earth thereon during periods of active construction, and the right to conduct grading and pavement and curb restoration work and other related activities in conjunction with the construction of the Project. GRANTOR may jointly traverse the Temporary Construction Easement Area for ingress and egress purposes whenever clear and safe access routes are available. GRANTOR acknowledges herein that there will be some access delays and obstructions within the Temporary Construction Easement Area from time to time as Project construction work is underway.

This Temporary Construction Easement shall be for a period not to exceed thirty-six (36) months, commencing upon the date the project receives right of way certification by Caltrans. This Temporary Construction Easement shall expire and all rights to the above-described property

conveyed herein shall cease and terminate no later than Thirty-six (36) months after Caltrans approves the right of way certification of this project. Such rights may also be terminated prior to the expiration of this period by City upon written notice to Grantor.

GRANTOR hereby warrants and represents that they are the sole owner of the Real Property upon which this Temporary Construction Easement is located, and that GRANTOR holds sufficient title in said property to fully grant to GRANTEE the Temporary Construction Easement described herein without conflict with any other interests.

This Grant of Temporary Construction Easement shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and assigns to the parties hereto. GRANTEE'S rights and obligations herein are assignable and transferable by GRANTEE, in whole or in part, to GRANTEE'S contractor(s), successors and assignees.

IN WITNESS WHEREOF, the undersigned grantor has executed this Temporary Construction Easement Deed as of the date set forth below.

Dated: Oct 10, 2023

GRANTOR:

Anne-Merelie Murrell, as sole trustee of Murrell Living Trust dated November 1, 1989, as amended and restated

By: Anne Merelie Murrell

Print Name: Anne-Merelie Murrell

Title: Trustee

Date: Anne-Merelie Murrell

NOTARY ACKNOWLEDGEMENT ATTACHED

EXHIBIT "A"

Legal Description of Subject Parcel

The land referred to in this report is situated in the City of Manhattan Beach, the County of Los Angeles, State of California, and is described as follows:

Lots 22, 23 and 24 in Block 3 of Tract No. 142, in the City of Manhattan Beach, County of Los Angeles, State of California, as per Map Recorded in Book 13, Pages 182 and 183 of Maps, in the office of the County Recorder of said County.

Assessor's Parcel Numbers(s): 4170-026-022

EXHIBIT "B"

Legal Description of Temporary Construction Easement



August 16, 2022
BKF Job No: 20212007-50

**EXHIBIT "A"
Legal Description**

BEING A PORTION OF LOT 24, IN BLOCK 3 OF TRACT NO. 142, IN THE CITY OF MANHATTAN BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 24, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF A PUBLIC RIGHT-OF-WAY EASEMENT PER RECORDED DOCUMENT IN BOOK 54835, PAGES 259 THROUGH 260, DATED JUNE 6, 1957 IN SAID COUNTY RECORDER;

THENCE ALONG THE EAST LINE OF SAID LOT 24, NORTH 00° 01' 45" EAST, 125.20 FEET TO THE NORTH LINE OF SAID LOT 24;

THENCE ALONG SAID NORTH LINE, NORTH 89° 48' 00" WEST, 9.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID NORTH LINE, NORTH 89° 48' 00" WEST, 11.57 FEET;

THENCE LEAVING SAID NORTH LINE, SOUTH 00° 52' 48" WEST, 1.00 FEET;

THENCE THE FOLLOWING (12) TWELVE COURSES;

SOUTH 89° 48' 00" EAST, 10.58 FEET;

SOUTH 00° 01' 45" WEST, 6.20 FEET;

SOUTH 51° 12' 32" WEST, 10.81 FEET;

SOUTH 00° 28' 00" WEST, 4.61 FEET;

SOUTH 89° 41' 39" WEST, 8.46 FEET;

SOUTH 00° 01' 45" WEST, 67.97 FEET;

SOUTH 89° 57' 41" WEST, 9.62 FEET;

SOUTH 00° 09' 15" WEST, 11.13 FEET;

SOUTH 89° 57' 22" EAST, 3.34 FEET;

SOUTH 00° 05' 39" EAST, 26.52 FEET;

NORTH 89° 46' 00" WEST, 10.84 FEET;

SOUTH 00° 14' 00" WEST, 1.00 FEET TO THE SOUTHERLY LINE OF SAID LOT 24;

4675 MacArthur Ct
Suite 400
Newport Beach
California 92660
phone 949.526.8460
fax 949.526.8499
www.bkf.com

Sheet 1 of 2



August 16, 2022
BKF Job No: 20212007-50

THENCE SOUTH 89° 46' 00" EAST, 10.05 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY, WITH A RADIUS OF 13.00 FEET, SAID POINT ALSO THE SOUTHWEST CORNER OF SAID PUBLIC RIGHT-OF-WAY EASEMENT;

THENCE NORTHEASTERLY ALONG SAID CURVE, THROUGH CENTRAL ANGLE OF 07° 57' 26", A DISTANCE OF 1.81 FEET;

THENCE NORTH 00° 05' 39" WEST, 17.55 FEET;

THENCE NORTH 58° 26' 49" EAST, 7.38 FEET;

THENCE NORTH 00° 01' 45" EAST, 103.64 FEET TO THE TRUE POINT OF BEGINNING;

CONTAINING AN AREA OF APPROXIMATELY 371 SQUARE FEET.

AS SHOWN ON THE ATTACHED EXHIBIT "B" AND BY THIS REFERENCE MADE PART HEREOF.

SUBJECT TO EASEMENTS, COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, RIGHTS, RIGHTS-OF-WAY, AND OTHER MATTERS OF RECORD, IF ANY.

Davis Thresh, P.L.S. No. 6868

8-16-2022

Dated

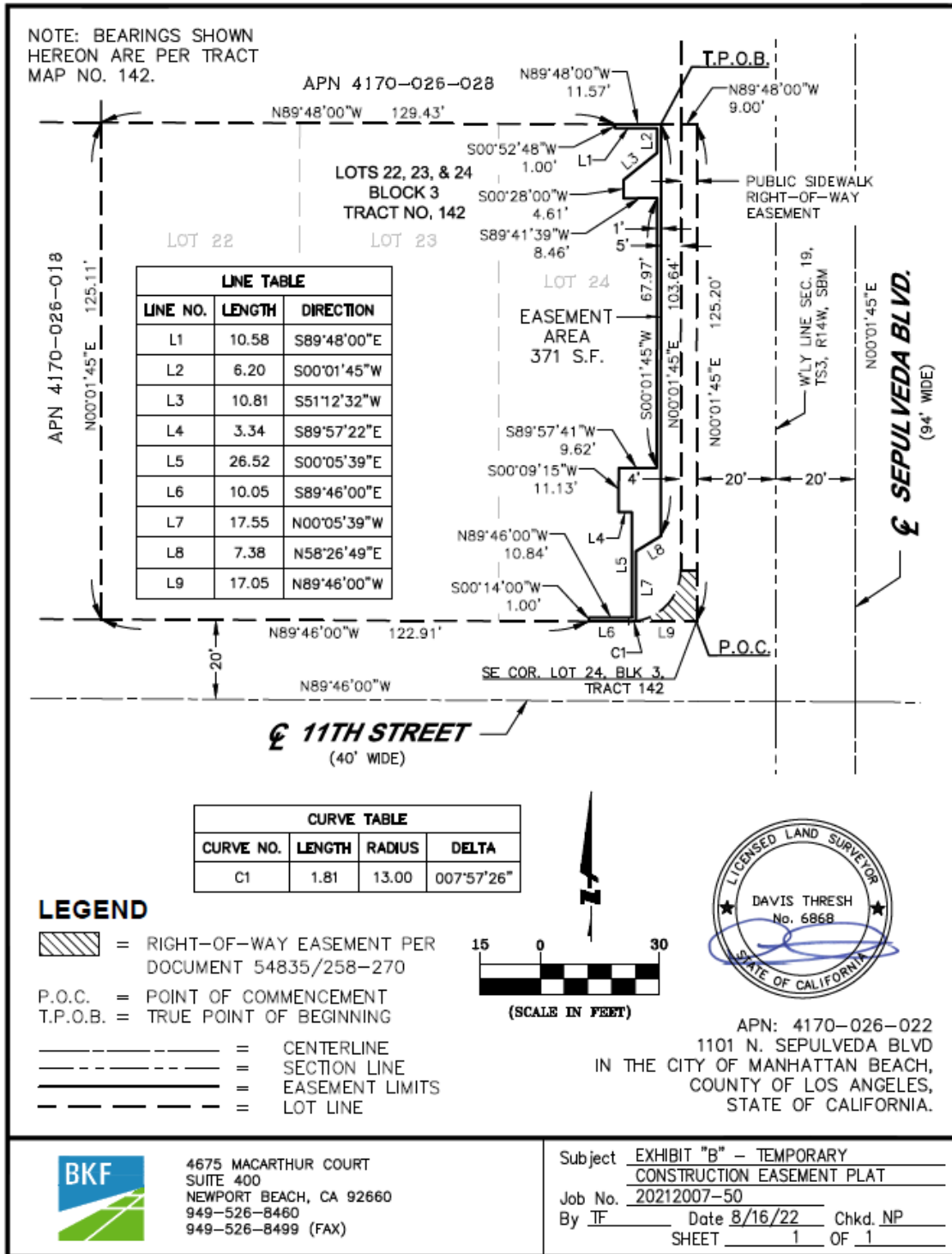


4675 MacArthur Ct
Suite 400
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California 92660
phone 949.526.8460
fax 949.526.8499
www.bkf.com

Sheet 2 of 2

EXHIBIT "C"

Map Depiction of Temporary Construction Easement



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)
) ss.
COUNTY OF Los Angeles)

On Oct 10, 2023, before me, Jess Hurtarte, Notary Public, personally appeared Anne-Merelie Murrell, 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 Jess Hurtarte (Seal)



CERTIFICATE OF ACCEPTANCE
(California Government Code Section 27281)

This is to certify that the interest in real property conveyed to the City of Manhattan Beach by that certain Temporary Construction Easement Deed dated October 10, 2023, executed by **Anne-Merelie Murrell, as sole trustee of Murrell Living Trust dated November 1, 1989, as amended and restated** is hereby accepted by the undersigned office on behalf of the City of Manhattan Beach pursuant to the authority conferred by the City of Manhattan Beach at the City Council closed session meeting held on _____, 2023, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2023

Sign: _____

Print Name: _____

Title: _____

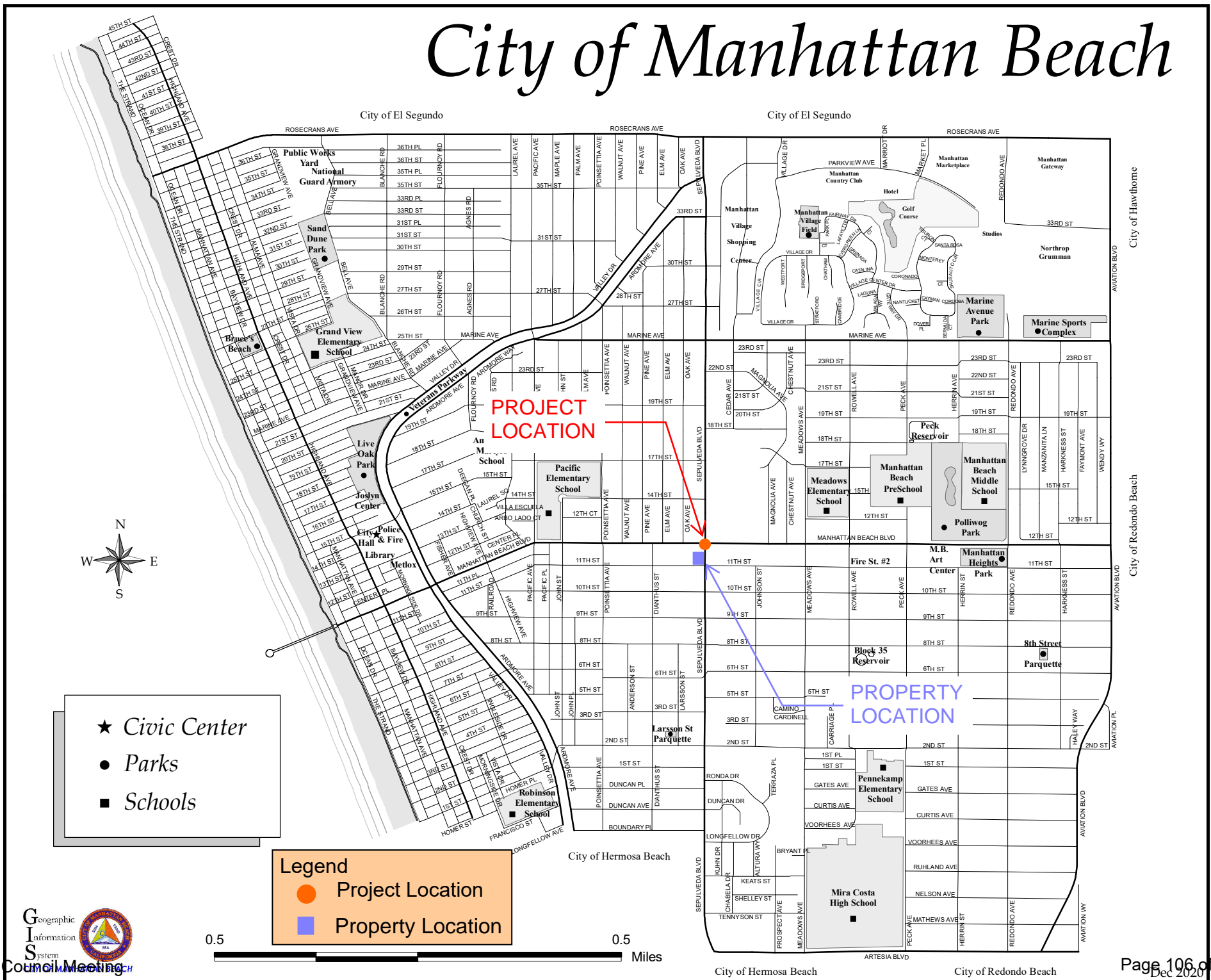
**Manhattan Beach Boulevard and Sepulveda Boulevard Intersection Improvement
Project**

Budget and Expenditures

Total Project Funding	
Measure R South Bay Highway Program	\$2,046,000
Proposition C Local Return	\$414,593
Project Total	\$2,460,593

Total Expenditures	
Design Contract: Onward Engineering (Original Contract)	\$ 210,133
Onward Engineering Amendment No. 1	\$ 77,035
Onward Engineering Amendment No. 2	\$ 172,046
TOTAL DESIGN EXPENDITURES	\$ 459,214
1101 N. Sepulveda Right-of-Way Acquisition	\$ 284,000
Rest of Right-of-Way Acquisition and Construction Phase (TBD)	\$1,717,379
TOTAL ESTIMATED RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION PHASE EXPENDITURES	\$ 2,001,379
TOTAL	\$2,460,593

City of Manhattan Beach





CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Erick Lee, Public Works Director
Katherine Doherty, City Engineer
Helen Shi, Senior Civil Engineer

SUBJECT:

Consideration of Accepting as Complete the Marine Avenue at Cedar Avenue Traffic Signal and Intersection Improvements Project (Public Works Director Lee).

ACCEPT AND APPROVE

RECOMMENDATION:

Staff recommends that the City Council:

- 1) Formally accept as complete the Marine Avenue at Cedar Avenue Traffic Signal and Intersection Improvements Project (Project) constructed by Crosstown Electrical & Data, Inc.;
- 2) Authorize the filing of the Notice of Completion with the County Recorder; and
- 3) Approve the release of retention of \$18,973.80 to Crosstown Electrical & Data, Inc.

FISCAL IMPLICATIONS:

The Project has a total project budget of \$990,000 in the Proposition C Fund and is partially grant funded through a \$900,000 Measure R Funding Agreement with the Los Angeles County Metropolitan Transportation Authority (LACMTA) to fund the development of design plans and specifications and construction.

The construction contract for the Project was awarded for \$311,963, with an authorized construction contingency amount of \$77,990. Two change orders were executed on the project in the cumulative amount of \$67,513.08 bringing the total amount expended on the contract to \$379,476.08. Subsequent to acceptance of the work and filing the Notice to Proceed, the

retention amount of \$18,973.80 will be released to the contractor. Any remaining funds will be returned to the Proposition C Fund.

BACKGROUND:

The intersection of Marine Avenue and Cedar Avenue is approximately 250 feet east (between vehicular stop lines) of Sepulveda Boulevard. Traffic congestion at this intersection impacts Sepulveda Boulevard and has caused blockage and delay along Sepulveda Boulevard. Additionally, the intersection is a major entrance to the Manhattan Village Shopping Center. The City determined that signal coordination between the two Marine Avenue intersections (Marine Avenue / Sepulveda Boulevard, and Marine Avenue / Cedar Avenue), and intersection reconfiguration and signal improvement of Marine Avenue and Cedar Avenue are critical and would benefit the community and improve the regional traffic conditions, especially along Sepulveda Boulevard.

On December 16, 2022, City Council awarded a construction contract for the Project to Crosstown Electrical & Data, Inc. (Crosstown). The work details are listed below as shown on the project plans and delineated in the specifications:

1. Converting the southbound approach from a left-turn, through and right-turn lane configuration to a left-turn, shared left/through and right-turn lane configuration.
2. Removing the eastern crosswalk to reduce conflicts with the southbound vehicular left turns resulting in improved operational and safety benefits.
3. Installing a traffic detection camera mounted on a pole in the median along Marine Avenue east of Sepulveda Boulevard to detect traffic from Sepulveda Boulevard traveling eastbound on Marine Avenue.
4. Coordinating traffic signals along Marine Avenue at Sepulveda Boulevard and Cedar Avenue.

DISCUSSION:

Construction of the Project began on May 30, 2023, and was completed on October 25, 2023. The City processed two change orders for the Project. Change Order No. 1 covered the cost of additional materials and labor to incorporate comments from the County comments and agreed by the City, including controller upgrade, signal heads, detection loops, detection cameras, slurry seal and street names signs. Change Order No. 2 incorporated additional tasks requested by the City for a pull box relocation and rerouting a conduit.

The total value of the change orders was \$67,513.08, which increased the cost of construction to \$379,476.08. Below is a summary of the budget and expenditures.

Marine Avenue at Cedar Avenue Traffic Signal and Intersection Improvements Project

\$311,963.00	Original Contract for Rowell Sidewalk Gap Project
+ \$77,990.00	Available Contingency
\$389,953.00	Total Available Budget

\$311,963.00 Contracted Work Completed
+ \$55,360.14 Change Order #1: Additional Labor and Material
+ \$12,152.94 Change Order #2: Additional Labor and Material
\$379,476.08 Total Contract Work and Change Orders

\$389,953.00 Total Available Budget
- \$379,476.08 Total Contract Work and Change Orders #1 and 2
\$10,476.92 Total Remaining Budget

The contractor is now requesting formal acceptance of their work on the Project. The retention amount of \$18,973.80 will be released 35 days after the recordation of the Notice of Completion with the County Recorder. All work has been inspected by the Public Works Department and the County of Los Angeles was found to be in conformance with the plans and specifications and to be of good quality.

PUBLIC OUTREACH:

Construction notices were distributed to area residents and businesses by Crosstown, and City staff maintained regular communication with the adjacent property owners to keep them abreast of the project schedule and impacts during construction. Throughout the duration of the project construction updates and traffic alerts were posted on the project specific page on the City website.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed Project for compliance with the California Environmental Quality Act (CEQA) and has determined that the Project qualifies for a Class 1(c) categorical exemption pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines, since the Project focuses on the existing intersection improvement, involving no expansion of public facilities. Thus, no further environmental review is necessary. A Notice of Exemption was filed with the Los Angeles County Clerk's Office for the Project.

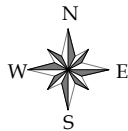
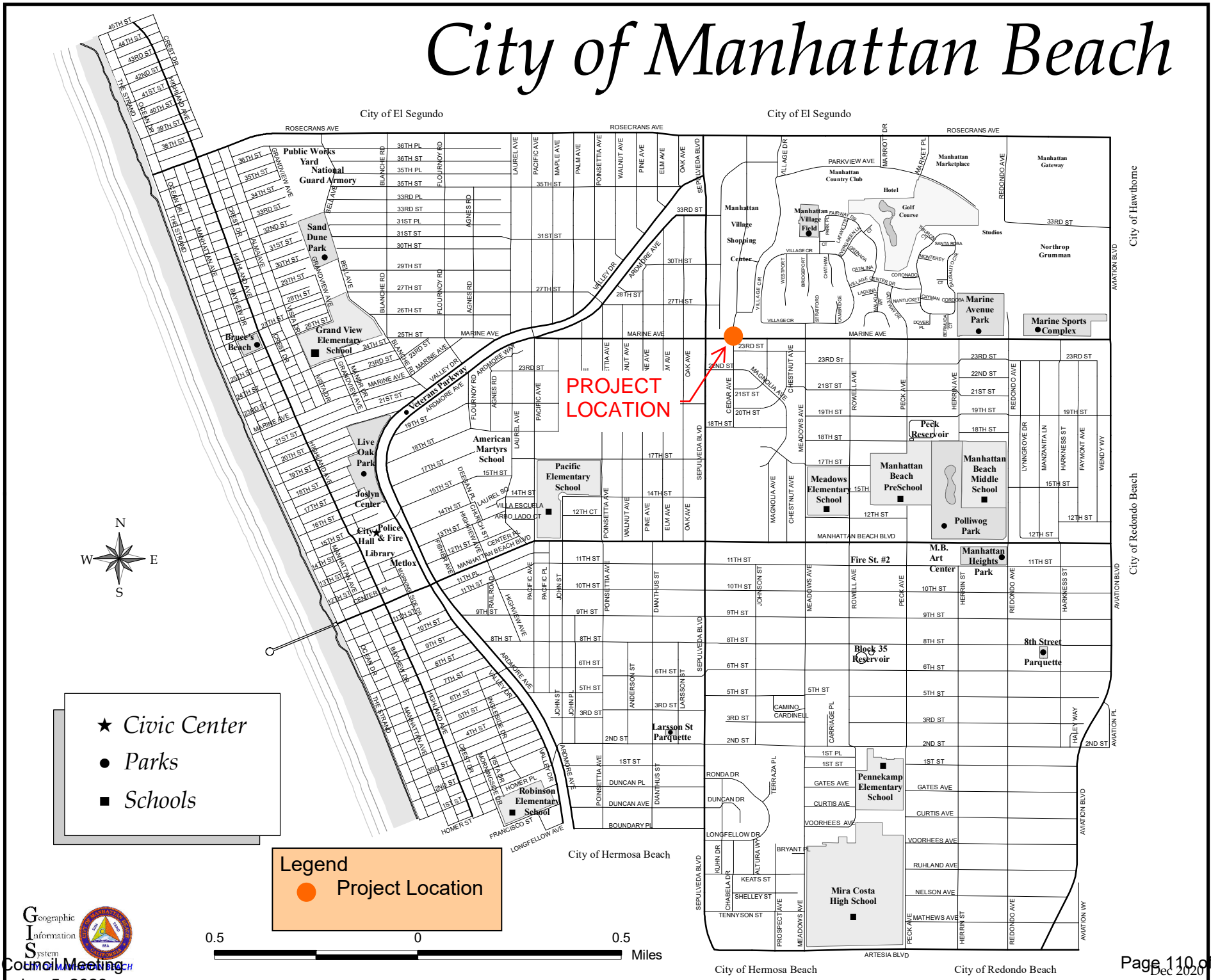
LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENT:

- 1. Location Map

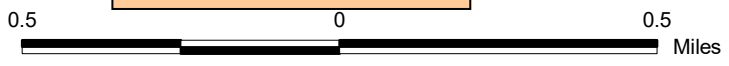
City of Manhattan Beach



- ★ Civic Center
- Parks
- Schools

Legend

- Project Location





CITY OF MANHATTAN BEACH

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STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Erick Lee, Public Works Director
Katherine Doherty, City Engineer
Marzena Laskowska, Senior Civil Engineer

SUBJECT:

Consideration of Accepting as Complete the Rowell Avenue Sidewalk Gap Closure Between 1st Street and Curtis Avenue Project (Public Works Director Lee).

ACCEPT AND APPROVE

RECOMMENDATION:

Staff recommends that City Council:

- 1) Formally accept as complete the Rowell Avenue Sidewalk Gap Closure Between 1st Street and Curtis Avenue Project constructed by FS Contractors, Inc.;
- 2) Authorize the filing of the Notice of Completion with the County Recorder; and
- 3) Approve the release of retention for \$27,888.23 to FS Contractors, Inc.

FISCAL IMPLICATIONS:

The construction contract for the Rowell Sidewalk Gap Closure Between 1st Street and Curtis Avenue Project (Rowell Sidewalk Gap Project) was awarded for \$547,970, with an authorized construction contingency amount of \$54,797. One change order was executed on the project in the amount of \$9,794.60 bringing the total amount expended on the contract to \$557,764.60. Subsequent to acceptance of the work and filing the Notice of Completion, the retention amount of \$27,888.23 will be released to the contractor. Any remaining funds will be returned to the Measure M Fund.

BACKGROUND:

In December 2021, the City executed a design services contract for the Rowell Sidewalk Gap Project and began the design process for sidewalk improvements, including Americans with

Disabilities Act (ADA) ramps, on both sides of Rowell Avenue between 1st Street and Curtis Avenue in front of Pennekamp Elementary School. The scope of work included the sidewalk, driveways, curb and gutter, signage, landscape, ADA ramps, and other incidental work. Design was completed December 2022.

On December 6, 2022, the City Council adopted Resolution No. 22-0159 accepting a Public Street, Utility, Sidewalk, and Driveway Easement from the Manhattan Beach Unified School District (MBUSD) at 110 S. Rowell Avenue at the frontage of Pennekamp Elementary School and authorized City Manager to execute the grant of easement and agreement with MBUSD. The grant of easement and agreement was executed and notarized on January 9, 2023 and filed with County Recorder on January 12, 2023.

On March 7, 2023, following a competitive bid process for the Rowell Sidewalk Gap Project, City Council awarded a construction contract to FS Contractors, Inc.

DISCUSSION:

The Rowell Sidewalk Gap Project began construction in June 2023 and was substantially complete in August 2023 within the MBUSD summer break.

One change order was necessary for this project. Contract Change Order No. 1 covered a change in Speed Awareness Sign pole type, additional slurry seal to cover the new crosswalk location on the north side of Curtis Avenue and Rowell Avenue, additional curb paint, and other final quantity adjustments. The final value of Contract Change Order No. 1 after deductions was \$9,794.60. The contractor fulfilled the remaining punch list items and change order work in October 2023.

FS Contractors, Inc. has satisfactorily completed all work and is now requesting formal acceptance of the project. The retention will be released 35 days after the recordation of the Notice of Completion with the County Recorder. All work inspected by the Public Works Department was found to be in conformance with the plans and specifications and of a good quality.

A warranty inspection, consistent with industry standards, will be conducted in summer 2024. Any areas observed during that warranty inspection which require remediation will be repaired at that time. This warranty work is included in the City's construction contract.

Rowell Sidewalk Gap Project

\$547,970.00 Original Contract for Rowell Sidewalk Gap Project
+ \$54,797.00 Available Contingency
\$602,767.00 Total Available Budget

\$547,970.00 Contracted Work Completed
+ \$9,794.60 Change Order #1: Pole Type, Slurry Seal, and Other Adjustments
\$557,764.60 Total Contract Work and Change Orders

\$602,767.00 Total Available Budget

- \$557,764.60 Total Contract Work and Change Order #1
\$45,002.40 Total Remaining Budget

PUBLIC OUTREACH:

The Project was developed based on direct requests for improvements from the school district, school administrators, Parent Teachers Association, and other families at Pennekamp Elementary School.

On May 18, 2023, the City mailed a Public Notice notifying residents adjacent to the work about the commencement of the construction phase in June 2023. Throughout the duration of the project, construction updates and traffic alerts were posted on the project specific page on the City website.

FS Contractors, Inc. distributed construction notices to area residents, and City staff maintained regular communication with the adjacent property owners to keep them abreast of the project schedule and impacts during construction.

ENVIRONMENTAL REVIEW:

The City reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA). At the time of award, the City Council determined that the project qualified for a Categorical Exemption pursuant to Section 15301(c) of the State CEQA Guidelines (the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use; including existing highways, streets, or sidewalks). A Notice of Exemption was filed with the Los Angeles County Clerk's Office for the Project, and no further environmental review is necessary for this action.

LEGAL REVIEW:

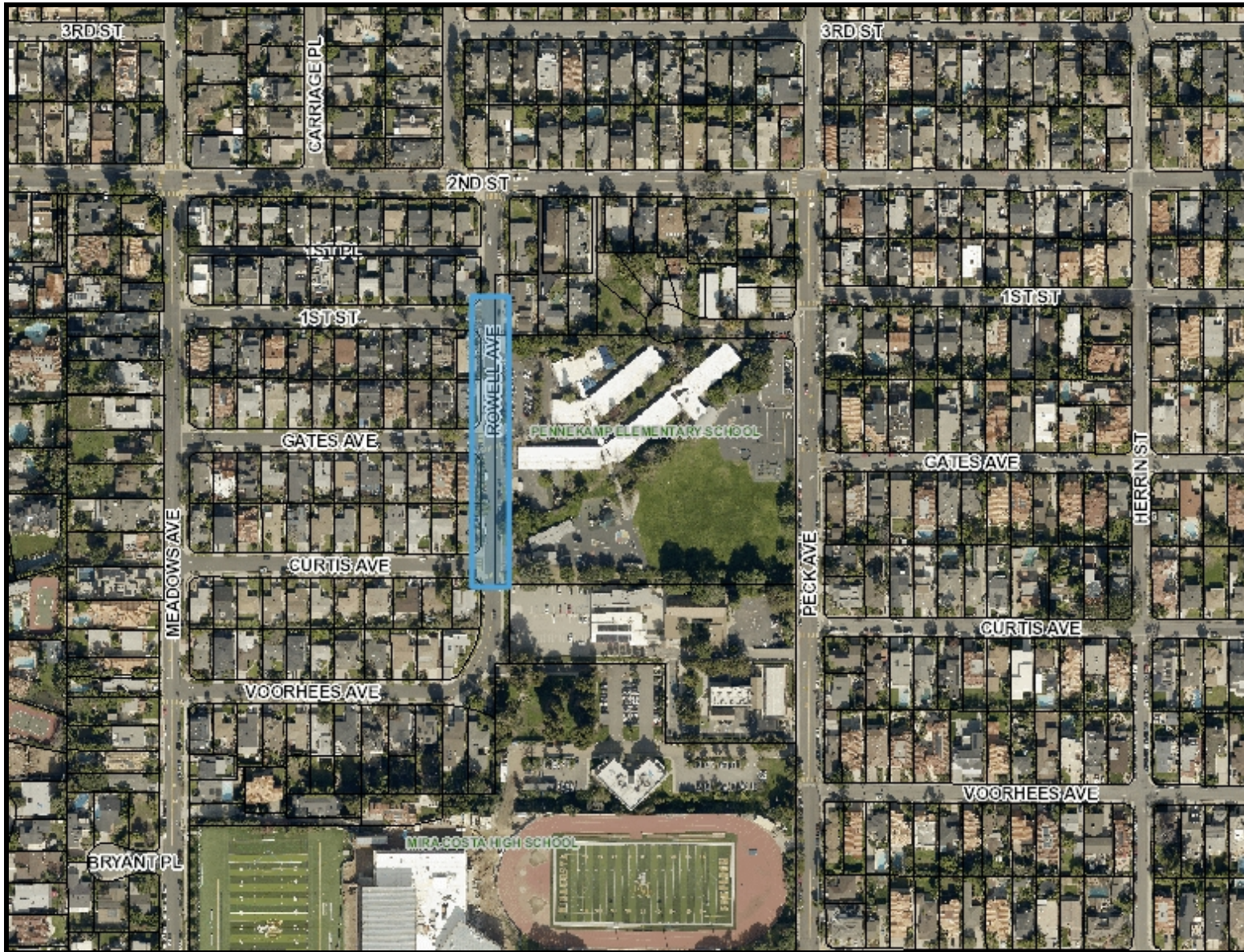
The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENT:

1. Location Map



City of Manhattan Beach



756.7 0 378.34 756.7 Feet



Legend

Parcels



Scale: 1:4,540

This map is a user generated static output from the "MB GIS Info" Intranet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Notes

Rowell Avenue Sidewalk Gap Closure between 1st and Curtis Ave



CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
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STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Erick Lee, Public Works Director
Katherine Doherty, City Engineer
Helen Shi, Senior Civil Engineer

SUBJECT:

Consideration of a Resolution Adopting Caltrans Local Assistance Procedure Manual Chapter 10 for State and Federal Funded Transportation Projects Related to the Highway Safety Improvement Program (HSIP) Crosswalk Improvements Project (Public Works Director Lee).

A) ADOPT RESOLUTION NO. 23-0163

B) AUTHORIZE

RECOMMENDATION:

Staff recommends that City Council adopt Resolution No. 23-0163:

1. Adopting Caltrans Local Assistance Procedure Manual (LAPM) Chapter 10 for State and Federal Funded Transportation Projects; and
2. Authorizing the City Manager and/or his or her designee to submit the necessary project information to the State of California as required to meet the intent of the federal regulations.

FISCAL IMPLICATIONS:

The State of California, acting by and through its Department of Transportation (Caltrans), approved grant funding from HSIP Cycle 11 for a Crosswalk Improvement Project. For that Project, Caltrans will provide a 90% reimbursement of up to \$245,000 in eligible expenditures, with the City expected to contribute remaining 10% as a local match. There are no additional fiscal implications associated with the recommended action at this time.

BACKGROUND:

The Infrastructure Investment and Jobs Act (IIJA), aka Bipartisan Infrastructure Law (BIL), was signed into law on November 15, 2021. Under IIJA, the Highway Safety Improvement Program (HSIP) is a core federal-aid program to States for the purpose of achieving a significant reduction in fatalities and serious injuries on all public roads. Caltrans Division of Local Assistance (DLA) manages California's local agency share of HSIP funds. California's Local HSIP focuses on infrastructure projects with nationally recognized Crash Reduction Factors. DLA's policies and procedures for Architectural and Engineering Consultant Selection presently reside in LAPM Chapter 10. Local Public Agencies accept this responsibility when receiving federal funds from DLA and by signing the Master Agreement for Federal-Aid Projects. DLA requires that local agencies adopt LAPM Chapter 10 for State and federal-aid funded projects.

Caltrans manages HSIP funding and solicits funding applications biannually for eligible projects. In July 2022, staff applied for \$245,000 through HSIP Cycle 11 for design and construction of a crosswalk improvement project at three potential locations. In March 2023, the State approved the funding application for the full \$245,000 (including 10% of local match funding). City Council approved the Funding Agreement on September 5, 2023.

DISCUSSION:

The approved funding will be used to improve safety features at the following three potential locations:

- Manhattan Avenue and 36th Street
- Valley Drive and Flourney Road
- Highland Avenue and 40th Street

Improvements may include installing crosswalks, constructing Americans with Disabilities Act (ADA) compliant ramps, and installing signage and other improvements, including Rectangular Rapid-Flashing Beacons (RRFB), if considered necessary. Exact locations and improvements will be finalized during the design phase following outreach to the community and the Parking and Public Improvements Commission (PPIC). If the feedback from the outreach does not support these additional improvements, other priority locations will be considered.

In order to accept and utilize the HSIP grant funds, the City Council must approve a resolution adopting Caltrans's LAPM Chapter 10 for State and Federal funded transportation projects. The attached resolution also authorizes the City Manager and/or his or her designee to submit the required information to Caltrans.

PUBLIC OUTREACH:

Public outreach will be conducted during the design phase to inform the public of the proposed improvements and their benefits to the community safety. All public comments and recommendations on the design and equipment details will be considered, as appropriate, during the design phase. The project will also be presented to the PPIC for review and to obtain its recommendations for City Council consideration. Targeted outreach would occur before the start of construction for residents and businesses located near and/or adjacent to construction activities.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Resolution No. 23-0163
2. Caltrans Local Assistance Procedure Manual Chapter 10
3. Location Map

RESOLUTION NO. 23-0163

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL ADOPTING CALTRANS'S LOCAL ASSISTANCE PROCEDURES MANUAL (LAPM) CHAPTER 10 FOR STATE AND FEDERAL FUNDED TRANSPORTATION PROJECTS

THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the City of Manhattan Beach is responsible for constructing transportation projects that are State and federally funded; and

WHEREAS, in order to comply with the Federal regulations and due to limited staffing and expertise, certain services including Architectural and Engineering (A&E) are contracted out to qualified firms; and

WHEREAS, the Federal regulations set forth standards for procuring and administering A&E contracts; and

WHEREAS, the provisions of the Brooks Act (40 United States Code, Section 1104) requires local agencies to award federally funded engineering and design-related contracts, otherwise known as A&E contracts, on the basis of fair and open competitive negotiations, demonstrated competence, and professional qualifications (23 CFR 31.201-3); and

WHEREAS, pursuant to 23 CFR 172.5 (b), local agencies shall develop and sustain organizational capacity and provide the resources necessary for the procurement, management, and administration of engineering and design related consultant services, reimbursed in whole or in part with Federal-Aid Highway Program funding as specified in 23 U.S.C. 106(g)(4)(A); and

WHEREAS, the provision 23 CFR 172.5 (b)(1) requires local agencies to adopt written policies and procedures for the procurement, management, and administration of engineering and design related consultant services in accordance with applicable Federal and State laws and regulations; and

WHEREAS, the State of California Department of Transportation (Caltrans) has developed the Local Assistance Procedures Manual (LAPM), Chapter 10, Consultant Selection which sets forth policies and procedures to be utilized by local agencies in the procurement and management of A&E contracts on state and federal funded transportation projects to ensure compliance with applicable Federal-Aid reimbursement; and

WHEREAS, the City of Manhattan Beach has developed additional policies, dated December 5, 2023, to ensure avoidance of conflict of interests in the performance of A&E services for state and federal funded transportation projects; and

WHEREAS, the City of Manhattan Beach desires to adopt Caltrans's LAPM Chapter 10 and the City's conflict of interest policies for compliance with Federal regulations on the procurement and administration of A&E contracts.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Manhattan Beach as follows:

SECTION 1. The above recitals are true and correct findings of the Manhattan Beach City Council.

SECTION 2. The City Council hereby approves and adopts Local Assistance Procedures Manual, Chapter 10, Consultant Selection dated January 2023 or as amended in future updates.

SECTION 3. The City Council hereby approves and adopts the A&E Services Administration and Procurement Policies developed by the City of Manhattan Beach for State and Federal Funded Projects dated December 5, 2023.

SECTION 4. The City Council hereby authorizes the City Manager to approve amendments to the City's adopted A&E Services Administration and Procurement Policies in consultation with the Federal Highways Administration.

SECTION 5. The Council hereby directs the City Manager and/or his or her designee to submit the information to Caltrans as required to meet the intent of the federal regulations.

SECTION 6. The City Clerk shall certify to the passage and adoption of this resolution.

ADOPTED on December 5, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

Chapter 10 Consultant Selection

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[Exhibit 10-O2: Consultant Contracts DBE Commitment](#)

[Exhibit 10-Q: Disclosure of Lobbying Activities](#)

[Exhibit 10-R: A&E Boiler Plate Agreement Language](#)

[Exhibit 10-S: Consultant Performance Evaluation](#)

[Exhibit 10-T: Conflict of Interest & Confidentiality Statement](#)

[Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#)

All LAPM Exhibits are located at:




<https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms>

10.1 FEDERALLY-FUNDED A&E CONTRACTS

Procurement Planning		
1	2	3
<ul style="list-style-type: none"> *Select Project *Set Project Objectives *Determine Project Schedule *Obtain CTC Allocation/Federal Authorization to Proceed prior to beginning reimbursable work *Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement (if applicable): submit Conflict of Interest (COI) and Scope of Work (SOW) to DLA-HQ prior to contract advertisement. 	<ul style="list-style-type: none"> *Identify Need for Consultant *Appoint Contract Administrator *Segment Project Work *Define SOW of A&E Consultant *Specify Products to be delivered 	<ul style="list-style-type: none"> *Estimate Cost of Consultant Work (independent cost estimate) *Determine Type of Contract (Project Specific or On-Call) *Determine Method of Payment: Lump Sum; Cost-Plus- Fixed-Fee; Cost Per Unit of Work; or Specific Rate of Compensation *Submit Exhibit 9-D to DLAE

A&E = Architectural and Engineering
IOAI = Caltrans Independent Office of Audits and Investigations
CT = Caltrans
DBE = Disadvantaged Business Enterprise
DLA = Division of Local Assistance
DLAE = District Local Assistance Engineer
DLA-HQ = Division of Local Assistance-Headquarters
LAPG = Local Assistance Program Guidelines
LAPM = Local Assistance Procedures Manual
MOP = Method of Payment
RFP = Request for Proposal
RFQ = Request for Qualifications
SOQ = Statement of Qualifications
SOW = Statement/Scope of Work

Figure 10-1: A&E Contract Procurement Process Workflow Diagram

Solicitation Documents and Advertisement		
4	5	6
		
<ul style="list-style-type: none"> *Determine Solicitation Document; RFP or RFQ *Appoint Consultant Selection Committee *Collect signed Conflict of Interest forms and Confidentiality Statements (see Exhibit 10-T: Conflict of Interest & Confidentiality Statement) from all members involved in process *Determine Procurement Schedule *Develop Technical Criteria with level of importance (weights) for Evaluation of Proposals or the SOQ 	<ul style="list-style-type: none"> *Prepare RFP or RFQ documents *Include SOW, evaluation process/criteria, DBE goals, MOP and cost proposal, minimum requirement of Proposal or SOQ, Notice to Proposers DBE Information (see Exhibit 10-I: Notice to Proposers DBE Information), submittal deadline *Advertise RFP or RFQ on public forum (newspaper, technical publications, web hosting site, other local websites) *Issue RFP or RFQ (direct mailing, web posting) 	<ul style="list-style-type: none"> *Prepare to respond to RFP/RFQ questions *Conduct Proposers Conference, if applicable *Receive Proposals or SOQs

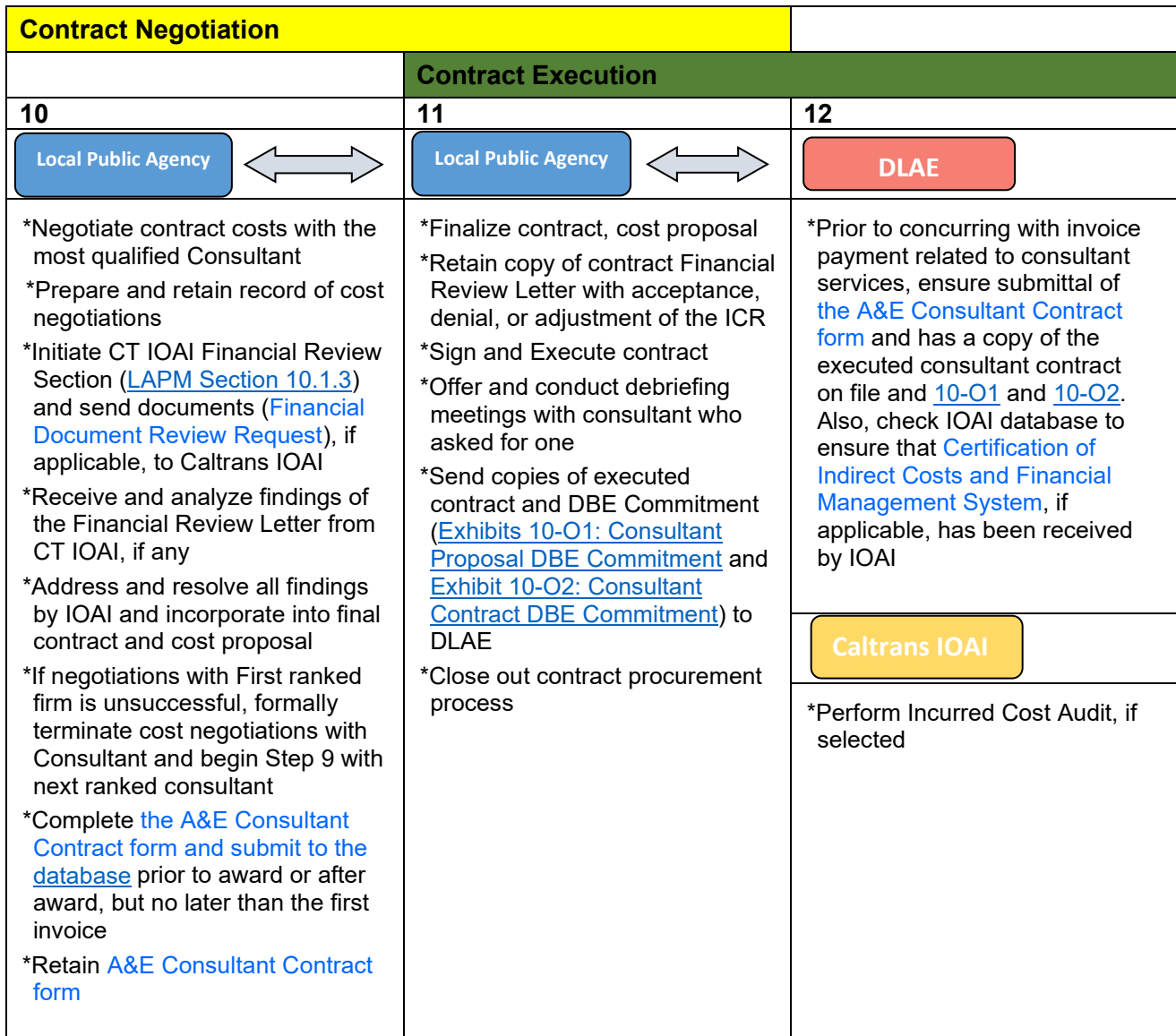
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Figure 10-1: A&E Contract Procurement Process Workflow Diagram- continued

Evaluation and Selection of Consultant		
		Contract Negotiation
7	8	9
<div style="border: 1px solid black; background-color: #4F81BD; color: white; padding: 5px; display: inline-block;">Local Public Agency</div> ↔	<div style="border: 1px solid black; background-color: #4F81BD; color: white; padding: 5px; display: inline-block;">Local Public Agency</div> ↔	<div style="border: 1px solid black; background-color: #4F81BD; color: white; padding: 5px; display: inline-block;">Local Public Agency</div> ↔
<ul style="list-style-type: none"> *Distribute Proposals or SOQs to Selection Committee members *Ensure Committee members receive the appropriate score sheet to use (see Exhibit 10-B: Suggested Consultant Evaluation Sheet) *Convene Selection Committee and evaluate submittals; perform reference checks *Develop Final Ranking or Short List *Notify proposers of ranking/Short List *Retain all original score sheets and summaries 	<ul style="list-style-type: none"> *Send out RFPs to Short List (two-step process) *Conduct Interview of Short List (if needed) *Develop Final Ranking of Consultants, and notify all interviewees *Retain all original score sheets and summaries *Provide a copy of Standard Contract language to top ranked consultant and invite for negotiations (see Exhibit 10-R: Boiler Plate Agreement Language for standard contract language and provisions) 	<ul style="list-style-type: none"> *Open and analyze cost proposal from the Highest Ranked firm <div style="border: 1px solid black; background-color: #FFD700; text-align: center; padding: 5px; margin: 10px 0;">Caltrans IOAI</div> <ul style="list-style-type: none"> *Review and evaluate Financial Document Review Request and supporting documents, if applicable *Issue Financial Review Letter, if applicable *Perform contract audits and reviews, if applicable, or review of CPA audited ICR workpapers to issue Cognizant Letter of Approval

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Figure 10-1: A&E Contract Procurement Process Workflow Diagram- continued



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LAPM = Local Assistance Procedures Manual
MOP = Method of Payment
RFP = Request for Proposal
RFQ = Request for Qualifications
SOQ = Statement of Qualifications
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Figure 10-1: A&E Contract Procurement Process Workflow Diagram- continued

10.1.1 General

Introduction

A Local Public Agency (LPA) may engage consultants to perform architectural, engineering, and related services to develop a federal-aid funded project. LPAs requesting federal funds to reimburse Architectural and Engineering (A&E) Consultants must follow the selection and contracting procedures detailed in Section 10.1 of this chapter. LPAs using local funds to procure an A&E Consultant on a federal-aid funded project and will not seek federal reimbursement for the consultant cost may choose not to follow the selection and contracting procedures detailed in Section 10.1 of this chapter. LPAs using local funds to procure a Consultant in a Management Support Role (CMSR) are required to obtain FHWA approval (see Section 10.1.9: Retaining a CMSR of this chapter).

Definition of an Architectural and Engineering Consultant

23 CFR 172 and California Government Code 4525 defines A&E services as those private consulting firms providing architectural, landscape architectural, engineering, environmental, land surveying, construction engineering, or program management.

Architectural and Engineering Consultants

The Brooks Act (40 U.S.C.1104) requires LPAs to award federally-funded engineering and design related contracts based on fair and open competitive negotiations, demonstrated competence, and professional qualifications (23 CFR 172), at a fair and reasonable price (48 CFR 31.201-3).

Cost proposals submitted to the LPA must be sealed and must not be included as a criterion for rating such consultants. After ranking, cost negotiations will begin with the most qualified consultant and only their cost proposal will be opened. Should negotiations fail or result in a price that the LPA does not consider fair and reasonable, negotiations must be formally terminated, and the LPA must then undertake negotiations with the second most qualified consultant.

If the negotiations with the second most qualified firm are not successful, negotiations must be formally terminated and the LPA must then undertake negotiations with the third most qualified consultant, and so on, until the price is determined to be fair and reasonable by the LPA.

In selecting an A&E consultant, a detailed technical proposal or qualifications proposal, and a proposed contract will be required.

Depending upon the scope of work, the required contract provisions may need to include the California State Prevailing Wages (Federal Payment of Predetermined Minimum Wage applies only to federal-aid construction contracts). Prevailing wages will apply if the services to be performed will involve land surveying (such as flag persons, survey party chief, rodman or chainman), materials sampling and testing (such as drilling rig operators, pile driving, crane operators), inspection work, soils or foundation investigations, environmental hazardous materials and so forth. California State Prevailing Wage information is available through the California Department of Industrial Relations (DIR) websites below:

Consultants will need to provide their Prevailing Wage Policy if their participation on the project includes prevailing wage work. The policy will include information on the accounting treatment of delta base and delta fringe, and verify the accounting treatment is consistent every year.

- DIR FAQ [website](#)
- DIR Wage Determination [website](#)
- [Caltrans Prevailing Wage Interpretive Guidance](#)

Non-A&E Consultants

Consultants other than A&E consultants may be selected using cost, cost and qualifications (best value), or other critical selection criteria. The procedures outlined in this chapter can be modified for selecting non-A&E consultants by adding a cost item to the contract proposal.

For more details on non-A&E consultants, see [Section 10.3: Non-A&E Contracts](#) of this chapter.

Selecting the Project

The LPA is responsible for selecting and initiating a federal-aid financed transportation project. The decision to begin project development is influenced by the project needs, its acceptability, the timing of studies, financing, and construction. The LPA must identify the project's objectives including the general level of improvement or service, operating standards, maximum cost, and the target date for project completion before commencing any consultant selection process.

Subcontracted Services

The consultant is responsible for performing the work required under the contract in a manner acceptable to the LPA. The consultant's organization and all associated consultants and subconsultants must be identified in the proposal. If the consultant wishes to use a subconsultant not specified in the proposal, prior written approval must be obtained from the LPA. The subcontract must contain all required provisions of the prime contract. All subawards must include adequate oversight, management, and administration of engineering and design related consultant services and be administered in accordance with State laws and procedures specified in 23 U.S.C.106(g)(4) and 2 CFR 200.331.

Organizational and Consultant Conflicts of Interest

In the procurement of contracts for engineering services by private consulting firms using federal-aid highway funds, LPAs must take all the steps necessary to prevent fraud, waste, and abuse. The LPA must develop and maintain a written code of conduct governing the performance of its employees (including the contract administrator) engaged in the award and administration of federal-aid highway funded contracts, including the prevention of conflicts of interest in accordance with 23 CFR 172.7(b)(4).

A conflict of interest occurs when a public official's private interests and his or her public duties and responsibilities diverge or are not consistent. Conflicts of interest may be direct or indirect (e.g., as result of a personal or business relationship). The appearance of a conflict of interest should be avoided as an apparent conflict may undermine public trust if not sufficiently mitigated.

Federal Regulation Governing Conflict of Interest (23 CFR 172.7(b)(4)) requires that:

- LPA must maintain a written code of standards of conduct for employees engaged in the award and administration of engineering and design service contracts;
- No contracting agency employee who participates in the procurement, management, or administration of federal-funded contracts or subcontracts must have, directly or

- indirectly, any financial or other personal interest in connection with such contract or subcontract;
- No person or entity performing services for a contracting agency in connection with a federal-funded project must have, directly or indirectly, any financial or other personal interest, other than employment or retention by the contracting agency, in any contract or subcontract in connection with such project;
 - No person or entity performing services for a contracting agency in connection with a federal-aid highway funded project must have, directly or indirectly, any financial or other personal interest in any real property acquired for the project;
 - No contracting agency employees or agents must neither solicit nor accept gratuities, favors, or anything of monetary value from consultants, potential consultants, or parties to sub-agreements;
 - LPA must disclose in writing any potential conflict of interest to FHWA.

Consultants Performing Work on Multiple Phases of Federal-aid Projects

LPAs sometimes wish to hire the same consultant firm to perform construction engineering and/or inspection services on the same project on which the firm also performed design services. This can cause project delivery efficiencies, as the design firm is well-suited to verify that the project is being constructed in accordance with the design and can resolve issues related to the design on behalf of the contracting agency. However, this may also pose a potential conflict of interest if the firm has a vested financial interest in failing to disclose deficiencies in its design work product and seeks to insulate itself from pecuniary liability in subsequent phases of the project, such as minimizing or ignoring design errors and omissions, rather than serving the best interests of the contracting agency and the public. Procuring a different firm from the design firm to provide the construction engineering and/or inspection services provides another level of review and reduces the risk of, or potential for, a conflict of interest.

Although federal regulations do not expressly prohibit the same firm from providing services on subsequent phases, the LPAs are responsible for ensuring the public interest is maintained throughout the life of a project and that a conflict of interest, real or apparent, does not occur or is sufficiently mitigated by appropriate public agency controls. Prior to allowing a consulting firm to provide services on subsequent phases of the same project, the contracting agency must establish appropriate compensating controls in policies, procedures, practices, and other safeguards to ensure a conflict of interest does not occur in the procurement, management, and administration of consultant services.

When design and construction phase services are procured under a single solicitation, the selection of the consulting firm must be based on the overall qualifications to provide both design and construction phase services, which require different skill sets, experience, and resources. Procuring these services under different solicitations may result in selection of a more qualified firm to perform services in each phase, as the most qualified firm to perform design phase services may not be the most qualified firm to provide construction phase services. Similarly, the qualifications and capacity of a firm may change over time. As such, it may not be appropriate to contract with a consulting firm to provide construction phase services at the outset of a design phase, knowing that these services may not be needed for an extended period until the preconstruction phase of the project is complete and construction funding authorized. The contract with a consulting firm providing design phase services on a project may not be amended to include construction phase services unless the desired

construction phase services were included within the original advertised scope of services and evaluation criteria of the solicitation from which a qualifications-based selection was conducted. All consultants acting in a management support role must complete [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#) (see [Section 10.1.9: Miscellaneous Considerations](#) in this chapter) and retain it in the LPA files.

Miscellaneous Considerations Authorization to Proceed

The Federal Highway Administration (FHWA) must give the LPA an Authorization to Proceed (E-76) with the work prior to performing of any work for which federal reimbursement is to be requested, (see [LAPM Chapter 3: Project Authorization](#)). Eligible consultant contracts may be procured using local funds prior to receiving the E-76, but reimbursement is for work performed after the E-76 authorization date. If contract is procured using state or local funds, federal procedures must have been followed if seeking federal reimbursement. For state-funded projects see [Section 10.2: State-Only Funded A&E Contracts](#) and [LAPG Chapter 25: State Programs for Local Agency Projects](#), for guidance on when work may proceed.

Copies of the Authorization to Proceed and the consultant contract must be retained in the LPA project files for future audit.

10.1.2 Identifying & Defining a Need for Consultants

The need for a consultant is identified by comparing the project's schedule and objectives with the LPA's capabilities, its staff availability of the required expertise, and its funding resources. If the LPA does not have sufficient staff capabilities, it may solicit assistance from another agency, or use a qualified private consultant to perform the required work.

If the LPA determines that there is a need to solicit assistance from another LPA, or to use a consultant, the District Local Assistance Engineer (DLAE) should be notified if federal-aid funds are to be requested for the project segment to be contracted out.

Appointing the Contract Administrator

The Contract Administrator is responsible for ensuring the quality of consultant contract products or services. The Contract Administrator is appointed as soon as the need for consultant services is identified. The Contract Administrator is involved throughout the development of the selection process and the contract provisions, and in the administration of the consultant's work. The Contract Administrator must be a qualified LPA employee or have staff that is qualified to ensure the consultant's work is complete, accurate, and consistent with the terms and conditions of the consultant contract. On federal-aid contracts, the Contract Administrator or staff members must be a full-time employee and familiar with the work to be contracted out and the standards to be used. The Contract Administrator must also abide by the laws, regulations and policies required as part of accepting federal or state funding for their project. Non-compliance with the laws, regulations, and policies may result in loss of project funding.

The Contract Administrator's duties are listed in 23 CFR 172.9(d)(1) and include:

- Contract negotiation, contract payment, and evaluation of compliance performance, and quality of services provided by the consultant;
- Being familiar with the contract requirements, scope of services to be performed, and products to be produced by the consultant;

- Being familiar with the qualifications and responsibilities of the consultant's staff and evaluating any requested changes in key personnel;
- Scheduling and attending progress and project review meetings, commensurate with the magnitude, complexity, and type of work, to ensure the work is progressing in accordance with established scope of work and schedule milestones;
- Documenting contract monitoring activities and maintaining supporting contract records as specified in 2 CFR 200.333;
- Provides direction to ensure the proposed work is advertised properly;
- Prepares and distributes the Request for Qualifications (RFQ), description of work, and Request for Proposals (RFP), if used;
- Prepares the draft contract;
- Arranges for preparation before an independent estimate of the value of the work to be contracted out;
- Ensures that the selection procedures are followed;
- Analyzes the selected/best-qualified consultant's cost proposal;
- Ensures contract audit and review procedure is followed;
- Ensures that fee/profit negotiation is conducted and keeps records;
- Serves as the LPA's primary contact person for the successful consultant;
- Monitors the consultant's progress and provides direction;
- Ensuring consultant costs billed are allowable in accordance with the Federal cost principles and consistent with the contract terms as well as the acceptability and progress of the consultant's work;
- Identifies other LPA staff for the consultant to contact, if needed;
- Closes out the contract at completion, by processing the final invoice; completing a mandatory consultant evaluation, and final DBE utilization reports ([Exhibit 17-F: Final Report Utilization of Disadvantaged Business Enterprises \(DBE\) and First-Tier Subcontractors](#)) or [Exhibit 17-F1: Final Report-Utilization of Disadvantaged Business Enterprises \(DBE\) and First-Tier Subcontractors for On-Call Contracts](#).

Segmenting Consultant Work

Consultant services are most effective when consultant work is segmented appropriately. The extent of segmenting depends upon the type and complexity of the work. Combining preliminary engineering tasks with the preparation of the required environmental analysis is normally desirable. Preparing an Environmental Assessment (EA) or Environmental Impact Statement (EIS) is more than simply writing a report. Assessment and impact reports include preliminary engineering needed to analyze project alternatives and produce an engineering and planning assessment. Initial project studies include only as much traffic and engineering analysis of alternatives, as is needed to produce a sound EA or EIS (see [LAPM Chapter 6 Environmental Procedures](#) and [Standard Environmental Reference \(SER\) Chapters 31:Environmental Assessment \(EA\)/Finding of No Significant Impact \(FONSI\)](#) and [Chapter 32:Environmental](#)

[Impact Statement \(EIS\)](#). Final design must not begin until NEPA environmental approval has been received if federal reimbursement is desired.

Refer to Figure 10-2: Segmenting Consultant Work below, which illustrates several satisfactory ways to segment consultant activities.

	Well-structured Projects With Simple Right of Way Requirements	Well-structured Projects With Complex Right of Way Requirements	More Difficult Projects	Very Complex Projects
Preliminary Engineering				
Environmental Analysis				
Plans, Specifications & Estimates				
Right of Way Activities				
Utility Relocation				
Construction Engineering				

Figure 10-2: Segmenting Consultant Work

Specify Products to be Delivered

The Contract Administrator identifies the products and services to be delivered as a result of consultant contract work, and minimum qualification of consultant professionals and staff. These vary depending upon the type of projects and the phase of project development being addressed.

Scope of Consultant Work

The scope of work, which the contract must include, is a detailed description of the products or services the consultant is to provide. From a detailed scope of work, consultants respond to a project advertisement, determine personnel and time requirements, and develop a technical proposal. Therefore, the scope of work must be clear, concise, complete, and describe the deliverables, standards for design and other work, quality control measures, acceptance criteria and deadlines.

Title VI Assurances

Title VI Assurances Appendices A and E must be included in each consultant contract. Include Title VI Assurances Appendices B, C, and D if applicable. The consultant must include the Title VI Assurances Appendices A and E, and if applicable Appendices B, C, and D in all subcontracts to perform work under the contract. Include Title VI Assurances Appendices B, C, and D if applicable. Refer to [Exhibit 10-R: A&E Boilerplate Agreement Language](#), Article XXXII Title VI Assurances.

Non-Discrimination Clause

The Non-Discrimination Clause ([Exhibit 10-R: A&E Boilerplate Agreement Language](#), Article XVI Non-Discrimination Clause and Statement of Compliance) must be included in each consultant contract. The consultant must include the non-discrimination and compliance provisions of the Non-Discrimination Clause in all subcontracts to perform work under the contract.

Disadvantaged Business Enterprise (DBE) Participation

When administering federal-aid projects, federal regulations (49 CFR 26) require the LPA to comply with the DBE program and take necessary steps to ensure that DBE firms have the opportunity to participate in the projects. Refer to [Chapter 9: Civil Rights and Disadvantaged Business Enterprises](#) for DBE requirements for A&E Consultant Contracts.

Estimated Cost of Consultant Work

An independent estimate for cost or price analysis is needed for all consultant contracts (23 CFR 172.7(a)(1)(v)(B)) to ensure that consultant services are obtained at a fair and reasonable price. The estimate must be prepared prior to opening the cost proposal from the top-ranked consultant, so the LPA has a cost comparison to evaluate the reasonableness of the consultant's cost proposal. The estimate, which is specifically for the use of the LPA's negotiating team, is to be kept confidential and maintained for records.

A good cost estimate can be prepared only if the scope of work is defined clearly. The scope of work must include a list of the products or services which the consultant is required to deliver, and a time schedule of when they must be delivered.

It should be stressed that all work to be derived from the consultant services, such as preliminary design, environmental, or final design, must be clearly identified in the solicitation of consultant services (RFQ or RFP) and included in the cost estimate. The addition of work to the original scope by amendment should be avoided whenever possible. Contract modifications are required for any amendments to the terms of the existing contract that change the cost of the contract; significantly change the character, scope, complexity, or duration of the work; or significantly change the conditions under which the work is required to be performed.

Some of the costs estimating techniques are:

Analogous Estimating:

Analogous cost estimating is using the actual cost of a previous, similar contract as the basis for estimating the cost of the current contract. Analogous cost estimating is frequently used to estimate costs when there is a limited amount of detailed information about the project. Analogous cost estimating is generally less accurate, and it is most reliable when previous projects are similar in fact, and not just in appearance, and it uses expert judgment.

Parametric Estimating:

Parametric estimating is a technique that uses statistical relationship between historical data and other variables to calculate a cost estimate for an activity resource. This technique can produce a higher level of accuracy depending upon the sophistication, as well as underlying resource quantity and the cost data. A cost example would involve multiplying the planned quantity of work by the historical cost per unit to obtain the estimated cost of the contract.

Bottom-up Estimating:

This technique involves estimating the cost for individual work in the contract with the lowest level of detail. This detailed cost is then summarized or rolled up to determine a total cost of contract. Cost detail should include estimated hours per task, labor hourly cost for professional and non-professional classifications, subconsultant costs, other project direct costs, and profit. Labor costs should be broken down to direct labor and indirect cost rates, if possible.

If more than one project or phase of work is to be developed within the consultant contract, separate cost estimates are required for each project or phase of work. Separate cost estimates are required for each milestone and portion of the work expected to be subcontracted.

For on-call (as-needed) contracts, the cost estimate/analysis should include at minimum, a historical analysis of annual needs for consultant work, professional labor cost and market analysis, and reasonable profit analysis.

Determine Type of Contract

Types of contracts to be used are described as follows:

- Project-specific contract is between the LPA and consultant for the performance of services and a defined scope of work related to a specific project or projects.
- Multi-phase contract is a project-specific contract where the defined scope of work is divided into phases which may be negotiated and executed individually as the project progresses.
- On-call contract is a contract that may be utilized for a number of projects, under which task or work orders are issued on an as-needed basis, for an established contract period and maximum total contract dollar amount. On-call contracts are typically used when a specialized service of indefinite delivery or indefinite quantity is needed for a number of different projects, such as construction engineering, design, environmental analysis, traffic studies, geotechnical studies, and field surveying, etc. Many agencies use these contracts to address peaks in workload of in-house engineering staff and/or to perform a specialized service which the agency does not have. On-call contracts must specify a reasonable maximum length of contract, not to exceed five (5) years, and a maximum total contract dollar amount (23 CFR 172). The maximum dollar amount for all contracts awarded under the solicitation must be stated in the solicitation. The maximum dollar amount is the aggregate of the on-call contracts anticipated to be awarded. For example, if the solicitation lists that up to five (5) contracts may be awarded, the aggregate amount of these 5 contracts is the maximum contract dollar amount. Setting maximum amount on each on-call contract under a multiple on-call solicitation does not meet the intent of 23 CFR 172. How many contracts are anticipated to be awarded must be stated in the solicitation. How task orders will be issued must be stated in the solicitation.

There are two options on how task orders must be awarded under multiple on-call contracts for the same type of service under the same solicitation:

1. Through an additional qualifications-based selection procedure also known as mini-RFP.
 - Solicit task order to the multiple on-call consultants on the master on-call contracts

- Master on-call contracts are contracts awarded to on-call consultants at the initial RFQ/RFP procurement process.
- Solicitation may be informal, e.g. email, letter, etc.; documentation is required.
- Evaluation criteria must be included in the solicitation. The mini-RFP contains evaluation criteria that matches the strengths of the qualified firms to the specifics of the known tasks, thereby selecting the most qualified firm for each task.
- The evaluation criteria can include:
 - i. availability of personnel,
 - ii. staff capabilities,
 - iii. DBE (10% or less of overall score); the overall DBE goal was established at the master on-call contract,
 - iv. completion of time,
 - v. experience of consultant
 - vi. specialized expertise, and past performance.
- Evaluate and rank proposals and select from the multiple on-call contracted consultants
 - Recommend at least three panel members to evaluate and rank
 - Evaluate based on criteria in mini-RFP solicitation
- Negotiate and award to the on-call contracted consultant
 - The mini-RFP or the task order will be negotiated with first ranked firm from each competition. Task order (mini-RFP) cost will be based on wage rates established in the master on-call contract, and the time and deliverable requirements in the task order.
- If only one proposal is received or there is an emergency, a Non-Competitive process must be justified, and [Exhibit 12-F](#) must be documented and signed by the DLAE
- Awarding task order to the multiple on-call consultants on a rotational basis does not meet the intent of the qualifications-based selection
- [Exhibit 10-G](#) must be used to track percentage of DBE [after a task order is completed](#)
- [Each task order must have an Exhibit 10-O1 and Exhibit 10-O2 as applicable](#)

2. Regional basis where each on-call consultant is contracted to a designated area.

To maintain the intent of the Brooks Act (40 U.S.C.1101-1104) in promoting open competition and selection based on demonstrated competence and qualifications, on-call consultant contracts established through the RFQ process must meet the following requirements:

- Must define a general scope of work, complexity, and professional nature of services.

- Specify a task order procedure the LPA uses to procure project-specific work under the contract.
- Task order work performed after the master on-call contract has expired will result in those costs being ineligible for federal or state reimbursement.
- If multiple consultants are to be selected and multiple on-call contracts awarded through a single solicitation for specific services, the number of consultants that may be selected or contracts that may be awarded must be identified.
- Specify procurement procedures in the contracts the LPA will use to award/ execute task orders among the consultants:
 - Either through an additional qualification-based selection process (see the Two-Step RFQ/RFQ process later in this chapter), OR
 - On regional basis whereby the region is divided into areas identified in the solicitation, and consultants are selected to provide on-call services for assigned areas only. The RFP may list multiple regions that allow consultants to crossover or be a “backup” to other consultants that for specifically documented reasons are not able to perform the work in their assigned region. Per 23 CFR 172.9 (a)(3)(B)(2), the “backup” option needs to be listed in the respective contracts.

An example of acceptable contract wording in multiple on-call contracts for the same type of service:

- “Agency has or will enter into three (3) task order contracts for performance of the Scope of Services identified in Exhibit “A”, including this Agreement (“CM Services Task Order Contracts”). The other CM Services Task Order Contracts are [identify other two contracts by agreement numbers and consultant firms]. The total amount payable by Agency for the CM Services Task Order Contracts must not exceed a cumulative maximum total value of Seven Million, Five Hundred Thousand Dollars (\$7,500,000) (“NTE Sum”). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under the CM Services Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the CM Services Task Order Contracts, the Agency must send written notification to Consultant and each of the other consultants entering into the CM Services Task Order Contracts. The notice must identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Consultant acknowledges and agrees that Agency must not pay any amount under this Agreement that would exceed the NTE Sum, and Consultant must not enter into a Task Order that exceeds the NTE Sum.”

Determining the Project Schedule

The LPA develops a schedule for performance of work and completion of the project. The schedule must include sufficient time to allow for:

- Selecting the consultant;
- Developing the consultant contract;

- Completing the A&E consultant contract audit process;
- Conducting meetings and project reviews.

Determine Method of Payment

The method of payment of contract must be specified. The following four methods are permitted under 23 CFR 172.9(b) depending on the scope of services to be performed ([sample cost proposals are provided on the A&E website](#)):

- Cost-Plus-Fixed Fee
- Cost Per Unit of Work
- Specific Rates of Compensation
- Lump Sum

The method of payment to the consultant must be set forth in the original solicitation, contract, and in any contract modification thereto. A single contract may contain different payment methods as appropriate for compensation of different elements of work. Markups are not allowed on any of the four methods of payment.

The cost plus a percentage of cost and percentage of construction cost methods of payment must not be used. Both of these methods are explicitly prohibited by 23 CFR 172.9(b).

Cost-Plus-Fixed Fee

The consultant is reimbursed for costs incurred and receives an additional predetermined amount as a fixed fee (profit). Federal regulations require that profit be separately negotiated from contract costs. The determination of the amount of the fixed fee must take into account the size, complexity, duration, and degree of risk involved in the work. The fixed fee is not adjustable during the life of the contract. The fixed fee dollar amount must be clearly stated in the contract. See the A&E [website](#) for a useful tool on Profit/Fee Determination.

This method of payment is appropriate when the extent, scope, complexity, character, or duration of work cannot be precisely predicted. The fixed fee limit applies to the total direct and indirect costs. Fixed fees in excess of 15 percent of the total direct labor and indirect costs of the contract may be justified only when exceptional circumstances exist. The contract must specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see [Exhibit 10-R: A&E Sample Contract Language](#), Article V, Option 1). The contract cost proposal must identify all key employees and/or classifications to be billed. New key employees and/or classifications must be approved by the LPA before they incur work on the contract, or the costs can be questioned or disallowed. LPAs are not required to update the A&E Consultant Contract form when new key employees and/or classification are added to a contract. For more details, reference [Section 10.1.8. Completing the Project](#).

Cost Per Unit of Work

The consultant is paid based on specific item of work performed. The item of work must be similar, repetitious, and measurable, such as a specific geotechnical investigation and material testing. This method of payment is appropriate when the cost per unit of work can be determined with reasonable accuracy in advance, but the extent or quantity of the work is indefinite. Contract payment provisions must specify what is included in the price to be paid for each item. Any item of work not identified in the contract cost proposal is not eligible for

reimbursement. New items of work (those within the original scope of work only) must be amended into the contract before work is performed. The contract must also specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see [Exhibit 10-R](#), Article V Option 2).

Specified Rates of Compensation

The consultant is paid at an agreed and supported specific fixed hourly, daily, weekly, or monthly rate, for each class of employee engaged directly in the work. Such rates of pay include the consultant's estimated costs and net fee (profit). Federal regulations require that profit be separately negotiated from contract costs. The specific rates of compensation, except for an individual acting as a sole proprietor, are to include an hourly breakdown, direct salary costs, fringe benefits, indirect costs, and net fee. Other direct costs may be included, such as travel and equipment rentals, if not already captured in the indirect cost rate. Other direct costs regardless of amount are to be listed on the cost proposal.

This method of payment should only be used when it is not possible at the time of procurement to estimate the extent or the duration of the work, or to estimate costs with any reasonable degree of accuracy. This method should not be used for project-specific contracts and is recommended for on-call contracts for specialized or support type services, such as construction engineering and inspection, where the consultant is not in direct control of the number of hours worked, and it also requires management and monitoring of the consultant's level of effort and the classification of employees used to perform the contracted work. The contract must also specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see [Exhibit 10-R](#), Article V Option 3).

Lump Sum

The consultant performs the services stated in the contract for an agreed amount as compensation, including a net fee or profit. This method of payment is appropriate only if the extent, scope, complexity, character, duration, and risk of the work have been sufficiently defined to permit fair compensation to be determined and evaluated by all parties during negotiations (see [Exhibit 10-R](#), Article V: Option 4). Normally, a lump sum contract will be paid in full at end of the contract when completed. However, a lump sum contract can be negotiated with progress payment if feasible. The progress payment must be based on percent of work complete or completion of clearly defined milestones. The contract cost proposal must document the agreed-upon progress payment and include the necessary milestones costs, or the percent work complete schedule.

Changes to the cost proposal requiring resubmittal to Independent Office of Audits and Investigations (IOAI) for review:

- Consultant/subconsultant name change
- New participating subconsultant's ICR
- Change in ICR rate

Since these changes require an amendment, the LPA is to update the A&E Consultant Contract form.

A firm fixed price method of payment is not the same as lump sum. A firm fixed price contract must not be amended.

10.1.3 A&E Consultant Audit and Review Process

This section outlines the audit and review process for A&E contracts that at any time use state or [federal-aid highway funds in furtherance of highway construction projects](#). All proposed A&E contracts and supporting documents are subject to audit or review by Caltrans' Independent Office of Audits and Investigations (IOAI), other state audit organizations, or the federal government. Not all proposed contracts will be audited or reviewed; rather, they will be selected on a risk-based approach.

Applicable Standards

State and federal requirements listed below, and specific contract requirements, serve as the standards for audits and reviews performed.

LPAs, consultants, and subconsultants are responsible for complying with state, federal, and specific contract requirements. LPAs are responsible for determining the eligibility of costs to be reimbursed to consultants.

Applicable standards include, but are not limited to:

- Caltrans Local Assistance Procedures Manual (LAPM);
- State and Federal agreements between LPAs and Caltrans, (i.e., Master Agreements);
- Project Program Supplemental Agreements;
- 23 U.S.C., Section 112 – Letting of Contracts;
- 40 U.S.C., Chapter 11: the Brooks Act;
- 23 CFR, Chapter 1, Part 172 - Procurement, Management, and Administration of Engineering and Design Related Services;
- 23 CFR, Chapter 1- Federal Highway Administration, Department of Transportation;
- 48 CFR, Federal Acquisition Regulation (FAR), Chapter 1, Part 31- Contract Cost Principles and Procedures;
- 48 CFR, Chapter 99 – Cost Accounting Standards (CAS), Subpart 9900;
- 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- United States Government Accountability Office, Government Auditing Standards - Generally Accepted Government Auditing Standards (GAGAS);
- California Government Code sections 4525-4529; and
- Proposed contract terms and conditions.

See Section [10.1.11: References](#) of this chapter for links to above referenced standards.

Audit Guidance Available

The American Association of State Highway and Transportation Officials, Uniform Audit & Accounting Guide ([AASHTO Audit Guide](#)), which is referred to frequently in this section, is a valuable tool to guide LPAs, consultants, and Certified Public Accountants (CPA) through the requirements for establishing, and audits of FAR-compliant Indirect Cost Rates (ICR). The [AASHTO Audit Guide](#) is used extensively as an industry guide in the audit and review process.

LPAs may seek accounting assistance from internal audit staff and an independent CPA for compliance. The consultant may seek professional guidance in selecting its independent CPA. See also the [AASHTO Audit Guide](#), Ch 2.5C. Selection of CPA Firm as Overhead Auditor for guidance in the selection process. Training is also offered by FHWA's National Highway Institute (see <https://www.nhi.fhwa.dot.gov/home.aspx>). Courses offered include:

- Using the AASHTO Audit Guide for the Procurement and Administration of A&E Contracts (FHWA-NHI-231028)
- Using the AASHTO Audit Guide for the Development of A&E Consultant Indirect Cost Rates (FHWA- NHI-231029)
- Using the AASHTO Audit Guide for the Auditing and Oversight of A&E Consultant Indirect Cost Rates (FHWA-NHI-231030)

For training and additional information provided by Caltrans Local Assistance, visit the [Caltrans Local Assistance Blog](#). For FHWA's Q&A for ICRs and audits, and A&E related services, visit [FHWA](#).

Allowable Costs

23 U.S.C.112(b)(2)(B) states that any A&E contract or subcontract awarded, whether funded in whole or in part with federal-aid highway funds in furtherance of highway construction projects, must be performed and audited in compliance with the Federal cost principles.

LPAs are required to perform a cost analysis to ensure all costs are allowable and in compliance with federal and state requirements and retain documentation of negotiation activities and resources. Hourly rate(s) for each key personnel and/or classification of employee(s) proposed in cost proposals must be reasonable for the work performed and actual, allowable, and allocable in accordance with the Federal cost principles. Costs must be allowable only if the cost is incurred and cost estimates included in negotiated prices are allowable in accordance with the federal and state regulations and procedures, and contract provisions.

LPAs are required to apply Caltrans-accepted consultant or subconsultant's ICRs, to contracts. An ICR is valid for the one-year applicable accounting period accepted or [reviewed](#) by Caltrans. Consultants must update, on an annual basis, ICRs in accordance with the consultant's annual accounting period and in compliance with the Federal cost principles. For further guidance, refer to 23 CFR 172.11(b)(1). If the consultant is subject to Cost Accounting Standards (CAS), the consultant must use the applicable ICR for the contract.

A consultant's accepted ICR for its one-year applicable accounting period must be applied to contracts; however, once an ICR is established for a contract, it may be extended beyond the one-year applicable period, through the duration of the specific contract, provided all concerned parties agree. Agreement to the extension of the one-year applicable period must not be a condition or qualification to be considered for the work or contract award. The contract must clearly specify the ICR period if it is beyond the one-year applicable period.

Consultants must account for costs appropriately and maintain records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, and are allowable, reasonable, and allocable to the contract, and comply with Federal cost principles.

IOAI and representatives of the Federal Government have the right to conduct an audit of all contract costs. If the costs are subsequently determined to be unallowable, these costs are subject to repayment. For further guidance, refer to 23 CFR 172 and 48 CFR 31.

Generally, whenever LPAs, consultants, and/or contractors are unable to provide requested documentation, it must be viewed that the services were either not performed or the costs not properly recorded. Retention of all documents is required as it reduces the possibility of audit findings and **disallowed costs**. For more references, refer to Applicable Standards in this chapter.

Safe Harbor Rate

Developing ICRs annually can place a significant burden on some small or new and emerging A&E consulting firms that lack financial sophistication to develop an ICR, as well as on other established A&E consulting firms that may not have previous experience with federally-funded contracts for which an ICR would have been developed in compliance with Federal cost principles 48 CFR 31. This may create a barrier for otherwise eligible and qualified firms to compete for federally-funded contracts.

To help alleviate and remove potential barriers, the Division of Local Assistance (DLA) has adopted Caltrans Division of Procurement and Contract's (DPAC) Safe Harbor Rate (SHR) process and rates which took into account LPAs' data. The SHR information and rates can be found at the following DLA A&E website: <https://dot.ca.gov/programs/local-assistance/guidance-and-oversight/consultant-selection-procurement>. To request information regarding the SHR methodology, email the DLA A&E branch at aeoversight@dot.ca.gov. Eligible A&E consultant firms can choose to use the DLA SHR rate on new A&E contracts using federal-aid highway funds executed by LPAs in the State of California.

Use and application of the SHR by eligible firms provides reasonable assurance of consultant compliance with the Federal cost principles per 23 CFR 172.11(c)(2). A&E consulting firms approved to use the established SHR will have their accounting system evaluated for capabilities of accumulating and tracking direct labor for applying the SHR, as well as for billing other direct costs by contract, segregating indirect costs, etc.

Use of the SHR is voluntary on behalf of the A&E consulting firm and LPAs. LPAs have the discretion to determine certification of eligibility based on requirements shown on the following SHR certification form: [Consultant Firm Certification of Eligibility and Certification of Financial Management System](#).

A&E consultant firms (prime and/or sub consultants) that have not had an ICR previously accepted by a cognizant agency may elect and request to use the SHR in a contract by submitting the completed SHR certification form, [Consultant Firm Certification of Eligibility and Certification of Financial Management System](#), including the Questionnaire for Evaluating Consultant Firm's Financial Management System section, and any other documents as needed. This requirement is in addition to the A&E Consultant Audit and Review Process requirements described in this chapter.

It is the LPA's responsibility to:

- Collect and screen all requests to use the safe harbor indirect cost rate. See SHR certification form, [Consultant Firm Certification of Eligibility and Certification of Financial Management System](#), including the Questionnaire for Evaluating Consultant Firm's Financial Management System section.
- Submit all SHR documents to the Independent Office of Audits & Investigations (IOAI) as part of the Financial Document Review Request package. The IOAI email address is: Conformance.Review@dot.ca.gov.

Requests to use the safe harbor indirect cost rate must be accepted/approved by IOAI **before** contracts are executed.

Approval or Acceptance of Indirect Cost Rates

Cognizant Letters of Approval

A cognizant approved ICR has been audited by a Cognizant agency (a State transportation agency of the State where the consultant's accounting and financial records are located or a State transportation agency to which cognizance for the particular indirect cost rate(s) of a consulting firm has been delegated or transferred to in writing by the State transportation agency where the consultant's accounting and financial records are located) in accordance with generally accepted government auditing standards to test compliance with the requirements of the Federal cost principles (per 48 CFR 31), and the cognizant agency has either 1) issued an audit report of the consultant's indirect cost rate or 2) conducted a review of an audit report and related workpapers prepared by a certified public accountant and issued a letter of concurrence with the audited indirect cost rate(s). The cognizant agency approves the ICR and a cognizant approval letter is issued.

Caltrans Acceptance of Indirect Cost Rate

When the ICRs have not been established by a cognizant agency, Caltrans must perform an audit or review of a consultant's and subconsultant's ICR(s) to provide reasonable assurance of compliance with Federal cost principles.

An audit or review of the ICR may consist of one or more of the following:

- Perform a review to determine if the ICR was prepared in accordance with 23 CFR Part 172, and 48 CFR, Chapter 1, Part 31;
- Perform an audit to determine if the ICR was prepared in accordance with 23 CFR Part 172, and 48 CFR, Chapter 1, Part 31; and issue an audit report;
- Review and accept an ICR audit report and related workpapers prepared by a CPA or another State Transportation Agency;

The outcome of an audit or review is for Caltrans to approve or accept the ICR so that it can be relied upon for future contracts with the consultant for a given one-year accounting period and for reliance by other contracting agencies using the same consultant. LPAs must ensure that only approved or accepted ICRs of consultants for the applicable one-year accounting period be applied to contracts, if rates are not under dispute. LPAs may check IOAI's website for consultant's approved or accepted ICRs. All approved or accepted ICRs are issued an Acceptance Identification (ID) number by IOAI that is posted to IOAI's [website](#). This ID number should be referenced on all future contracts that use the same fiscal year ICR. ICR can be fixed for the life of the contract in prior written document or annually updated. Once it has been updated, it must be annually updated and the most current fiscal year of ICR must be used.

ICRs that have not been accepted by Caltrans will not be eligible for indirect cost payment. An ICR approved by a cognizant agency may be used across states for the one-year applicable accounting period, but an ICR accepted by Caltrans may **only** be applied to A&E contracts with Caltrans or LPA contracts using pass-through Caltrans funding. LPAs include Cities, Counties, Metropolitan Planning Organizations, Special Districts, and Regional Transportation Planning Agencies.

Financial Review Performed Prior to Contract Execution

All consultants, including prime and subconsultants, on a proposed contract with a dollar value equal to or greater than \$1M are subject to an ICR financial review by IOAI. The financial documents required are detailed in the [Financial Document Review Request form](#). IOAI will review the ICR financial documents to either accept or adjust the indirect cost rate **prior to contract execution** using a risk-based approach as dictated by factors that include but are not limited to:

- History of satisfactory performance and professional reputation of consultant;
- Prior FAR compliant history and audit frequency;
- Experience of consultant with FAHP contracts;
- General responsiveness and responsibility;
- The approximate contract volume and dollar amount of all A&E contracts awarded to the consultant by Caltrans or an LPA in California within the last three calendar years;
- The number of states in which the consultant does business;
- The type and complexity of the consultant's accounting system;
- The relevant professional experience of any CPA performing audits of the consultants indirect cost rate;
- Assessment of consultant's internal control. Responses to internal control questionnaire, see AASHTO Audit Guide, Appendix B;
- For ICRs that have been adjusted by IOAI, the consultant must provide a revised cost proposal that reflects the adjusted ICR.

Local Public Agencies' Responsibilities

LPAs are responsible for obtaining all required ICR supporting documentation from A&E prime consultants and sub-consultants as outlined in the Financial Document Review Request form. LPAs are responsible for forwarding these documents to IOAI for review. LPAs are also required to ensure that IOAI has a copy of the [Certification of Indirect Costs and Financial Management System form](#). The ICR included in [the LPA's cost proposal](#) must match the ICR included in the Certification of Indirect Costs and Financial Management System form and the consultant's ICR schedule. The proposed ICR, however, can be lower than ICR in the Certification of Indirect Costs and Financial Management System form and the consultant's ICR schedule if the consultant elects to propose a lower ICR. For contracts spanning more than one year, LPAs are responsible for ensuring the Certification of Indirect Costs and Financial Management System form and cost proposals are updated annually unless all concerned parties agree to fix the ICR for the term of contract, and this is clearly specified in the contract. ICR updates are not required to IOAI if the ICR is fixed for the life of the contract. ICR's are only reviewed for consultants that are being awarded a contract, not consultants on a shortlist or prequalified list.

The cost proposal includes contract costs: direct salary or wage rates, fixed fees, other direct costs, indirect costs, total costs, and certification for the costs. LPAs must perform and retain documentation of activities and resources used to support that a cost analysis has been performed to establish that costs and elements were determined to be fair and reasonable in accordance with Federal cost principles.

All contract supporting documentation must be retained by the LPA in project files for the required retention period. Unsupported costs may be disallowed and required to be returned to Caltrans. Having proper documentation policy and procedures, trained staff, and organized project files are essential for demonstrating that costs claimed and reimbursed have been incurred, are eligible, reasonable, allowable, and allocable to the contract and comply with Federal cost principles.

Contracts below **\$1 Million** are not subject to the Caltrans Financial Document Review but LPAs are required to establish that all costs are in compliance with the Federal cost principles, 48 CFR, Chapter 1, Part 31, and other applicable requirements are met. All documents listed above, and cost analysis documents are required to be retained in the project files to demonstrate compliance.

Instructions are provided in the Financial Document Review Request form including requirements for submitting a complete Financial Review packet. Financial packets can be e-mailed to: conformance.review@dot.ca.gov.

Alternatively, if you do not have internet access, you can mail Financial Review packets to:

Department of Transportation
Independent Office of Audits and Investigations
MS 2 Attention: External Audit Manager
P.O. Box 942874
Sacramento, CA 94274-0001

Consultants' Responsibilities (Both prime consultants and subconsultants)

A&E prime consultants and subconsultants in contract with LPAs using state or federal-aid highway funds should refer to the Financial Document Review Request form for the ICR financial documents required to be submitted to their LPA. Consultants must complete the Certification of Indirect Costs and Financial Management System form that attests that the ICR rate proposed is in compliance with FAR (48 CFR, Chapter 1, Part 31) and that the consultant's financial management system is adequate to accumulate and segregate reasonable, allowable, and allocable direct and indirect project costs. The Financial Document Review Request and Certification of Indirect Costs and Financial Management System forms should be submitted to the LPA who will forward a copy to IOAI along with all other related and required financial documents. For all future contracts within a same fiscal year, the consultant needs to only provide a copy of the Certification of Indirect Costs and Financial Management System form to the LPA.

Consultants must follow all the federal, state, and contract requirements outlined above in the Section above, "Applicable Standards". Each contracting consultant must ensure its ICR is not combined with any parent company's or subsidiary's ICR.

ICR schedules for both prime consultants and sub-consultants should be prepared using the accrual basis of accounting and be presented in compliance with the Federal cost principles. Figure 10-3 provides an example of a Standard Indirect Cost Rate Schedule that consultants can use when preparing their own.

For public works Prevailing Wage contracts, all workers must be paid the prevailing wage rate determined by the Director of the Department of Industrial Relations according to the type of work and location of the project: <http://www.dir.ca.gov/Public-Works/Prevailing-Wage.html>.

For guidance see Caltrans' Prevailing Wage Interpretive Guidance and webinar on IOAI's [website](#).

When determined necessary, IOAI may request additional information, such as a labor distribution summary and Executive Compensation Analysis (ECA). A consultant's labor distribution summary report is a labor expense report that detail all hours worked (paid and unpaid) for a fiscal year, wages earned, and benefits accrued by all the consultant's employees. The labor summary report should include employee names, salaries, hourly rates, total hours worked segregated by direct hours, indirect hours, paid time off hours, and uncompensated hours and amounts.

An ECA is an evaluation by the consultant to determine the allowability and reasonableness of executive compensation in compliance with Federal cost principles and the AASHTO Audit Guide that can be based on either the National Compensation Matrix or independent compensation surveys.

Independent Office of Audits and Investigations' Responsibilities

After IOAI receives a consultant's complete financial document packet (per the Financial Document Review Request form) from the LPA, IOAI will review the proposed ICR and supporting documents and notify LPAs in writing whether the proposed ICRs are accepted or adjusted.

Contracts will be executed after IOAI either accepts or adjusts the ICR. Correction of the final cost proposal, however, does NOT need to be cleared through Caltrans IOAI before executing the contract. An email notification from IOAI serves as documentation to support an accepted ICR.

Audits and Reviews to be Performed

After contract execution, a consultant's ICR may be subject to further detailed review or audit by IOAI based on certain risk factors. Costs that are determined to be unallowable as a result of the review or audit will be subject to repayment.

Indirect Cost Rate Audits

During an ICR audit, IOAI or an independent CPA will examine the consultant's proposed ICR for a one-year accounting period to ensure that unallowable costs have been removed from the indirect costs, that allowable costs have been correctly measured and properly charged and allocated, and that the ICR has been developed in accordance with the Federal cost principles (as specified in 23 U.S.C.112(b)(2)(B), 23 CFR 172.11, 48 CFR 31 and other FAR and State requirements). As a result of the audit, the LPA will work with the consultant to adjust the ICR based on audit recommendations.

For guidance regarding the existing policies and procedures set forth in the federal regulations, and acceptable ICR schedules, refer to the AASHTO Audit Guide, Chapter 5, and Figure 10-3 Standard Indirect Cost Rate Schedule in this Chapter. There is also a review program at Appendix A which serves as a guide for CPAs and IOAI when performing ICR audits and can also be used as a resource for consultants when preparing for an ICR audit.

CPA Workpaper Reviews

During a workpaper review of a CPA audit of an ICR, IOAI will review the CPA's audit workpapers to determine whether to issue a Cognizant Letter of Approval for the ICR. The CPA

Workpaper Review determines whether: (a) the CPA's audit of the ICR was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS), (b) the CPA adequately considered the auditee's compliance with the Federal cost principles and related federal and state laws and regulations. Chapter 11 of the AASHTO Audit Guide provides information to the CPA on the required audit disclosures.

IMPORTANT NOTE FOR CPAs: Contracts receiving state or federal funds are highly scrutinized. Materiality levels tend to be lower and more testing is required. GAGAS provides that auditors may find it appropriate to use lower materiality levels as compared with the materiality levels used in non-GAGAS audits because of the public accountability of government entities and entities receiving government funding, various legal and regulatory requirements, and the visibility and sensitivity of government programs. The AASHTO Audit Guide should be used as a tool for performing audits and attestations of A&E firms.

Contract Audits

During a Contract Audit, auditors will review a consultant's financial management system and contract cost proposal to determine if:

- The consultants' accounting system is adequate to accumulate and segregate costs;
- Costs are reasonable, allowable, allocable, and supported adequately;
- The contract contains all required fiscal provisions;
- Proper state and federal procurement requirements were followed.

Incurred Cost Audits

During an Incurred Cost Audit, auditors will review incurred contract costs to determine if:

- Cost data are maintained in an accounting system that adequately gathers, records, classifies, summarizes, and reports accurate and timely financial data for direct and indirect project costs by account;
- Costs are adequately supported, reasonable, allowable, and allocable;
- Costs incurred are in compliance with state and federal laws and regulations;
- Costs incurred are in compliance with the Master Agreement and Supplemental Agreement;
- Costs incurred are in compliance with the fiscal provisions stipulated in the contract; and
- The terms required by the Master Agreement and federal laws and regulations are in the contract.

Audit Findings and Review Deficiencies

If a consultant's ICR is audited or reviewed, LPAs are responsible for ensuring all executed and future contracts reflect the audited and adjusted fiscal year ICR(s). LPAs should request reimbursement from the consultant for overpayment on rates that were adjusted down.

The LPAs may be subject to sanctions outlined in [Section 10.5 Sanctions](#) if the state or federal government determines that any reimbursements to the consultant are the result of lack of proper contract provisions, unallowable charges, unsupported activities, or an inadequate financial management system.

Example of a FAR Compliant Indirect Cost Rate Schedule - Sample Consulting Company

Statement of Direct Labor, Fringe Benefits, and General Overhead for the Year Ended December 31, 20xx

Description	General Ledger Balance	Unallowable	FAR Reference	Total Proposed	Home Office	Field Office
Direct Labor	\$123,456,789	(\$934,568)	(1)(15)	\$122,522,221	\$85,765,555	\$36,756,666
Fringe Benefits						
Vacation/Paid Leaves	\$17,283,950			\$17,283,950	\$12,098,765	\$5,185,185
Payroll Taxes	\$1,530,864	(\$30,617)	(15)	\$1,500,247	\$1,050,173	\$450,074
Medical Insurance	\$10,864,197			\$10,864,197	\$7,604,938	\$3,259,259
401K Match	\$4,938,272			\$4,938,272	\$3,456,790	\$1,481,481
Incentives and Bonus	\$15,308,642	(\$3,123,456)	(2)	\$12,185,186	\$8,529,630	\$3,655,556
Other Employee Benefits	\$2,515,280	(\$553,433)	(3)	\$1,961,847	\$1,373,293	\$588,554
Total Fringe Benefits	\$52,441,206	(\$3,707,506)		\$48,733,700	\$34,113,590	\$14,620,110
General & Administrative Overhead						
Indirect Overhead Labor	\$72,696,030	(\$4,452,541)	(1)(2)(4)(15)	\$68,243,489	\$65,790,948	\$2,452,541
Purchased Labor/Subconsultants	\$22,433,019	(\$22,433,019)	(5)	\$ -	\$ -	\$ -
Office Rent	\$12,345,679	(\$987,654)	(6)	\$11,358,025	\$11,038,025	\$320,000
Supplies & Utilities	\$5,753,086			\$5,753,086	\$4,027,160	\$1,725,926
Postage and Shipping	\$1,770,000	\$321,456	(5)	\$2,091,456	\$1,464,019	\$627,437
Equipment and Maintenance	\$3,812,346			\$3,812,346	\$2,512,789	\$1,299,557
Depreciation Expense	\$6,202,469	(\$1,345,678)	(7)	\$4,856,791	\$3,205,482	\$1,651,309
Interest	\$123,456	(\$123,456)	(8)	\$ -	\$ -	\$ -
Dues and Subscription	\$123,456	(\$12,345)	(9)	\$111,111	\$77,778	\$33,333
Advertising & Marketing	\$427,406	(\$45,678)	(10)	\$381,728	\$267,210	\$114,518
Vehicles	\$5,896,123	(\$147,403)	(5)(11)(14)	\$5,748,720	\$4,024,104	\$1,724,616
Bad debts	\$12,345	(\$12,345)	(12)	\$ -	\$ -	\$ -
Legal and Accounting Services	\$3,713,580	(\$222,815)	(13)	\$3,490,765	\$3,490,765	\$ -
Fines and Penalties	\$80,000	(\$80,000)	(16)	\$ -	\$ -	\$ -
Total General & Admin. Overhead	\$135,388,995	(\$29,541,478)		\$105,847,517	\$95,898,280	\$9,949,237
Total Indirect Costs				\$154,581,216	\$130,011,870	\$24,569,347
Indirect Cost Rates				126.17%	151.59%	66.84%

Figure 10-3: Standard Indirect Cost Rate Schedule

FAR References:

- (1) FAR 31.202: Uncompensated overtime.
- (2) FAR 31.205-6: Profit distribution and excess of the reasonable compensation.
- (3) FAR 31.205-46, 31.205-14 & 31.205-51: Meals not for valid business purposes and associated with lobbying and lacking adequate support
- (4) FAR 31.201-2: Administrative staff costs billed to projects/clients.
- (5) FAR 31.201-2: Subconsultant labor and other direct costs billed to and paid by contracts/clients.
- (6) FAR 31.205-36 and 31.205-17: Capital lease costs, rent paid in excess of reasonable costs, and idle facilities and capacity costs.
- (7) FAR 31.201-2 & 31.205-6: Costs relates to personal use by employees and luxury vehicles.
- (8) FAR 31.205-20: Interest and other financial costs not allowable.
- (9) FAR 31.201-2: Non-business related dues and subscriptions.
- (10) FAR 31.205-1: Costs for advertisement and public relations costs and trade show expense including labor.
- (11) FAR 31.205-46(d) and 31.205-6(m)(2): Personal use of vehicle and lack of mileage logs and business purpose.
- (12) FAR 31-205-3: Bad debts and collection costs.
- (13) FAR 31.205-27 and 31.205-47: Reorganization and capital raising related costs and costs incurred in connection with violation of a law or regulation by the consultant.
- (14) FAR 31.205-46: Unreasonable costs and costs not supported by documents and lack of business purpose.
- (15) FAR 31.201-6(a) & CAS 405-40: Labor costs associated with unallowable costs.
- (16) FAR 31.205-15: Fines and penalties resulting from violations of laws and regulations.

10.1.4 Consultant Selection Methods

Figure 10-4: Consultant Selection Flowchart shows the three methods normally used in selecting a consultant. They are:

- One-Step RFP
- One-Step RFQ
- Two-Step RFQ/RFP

The method used depends upon the scope of work, the services required, the project's complexity, and the time available for selection of the consultant.

Beginning with [Section 10.1.5: Consultant Selection Using the One-Step RFP Method](#), each of the selection methods is explained in detail. Regardless of the method used, the LPA must retain all consultant selection documentation in their project files as required by 23 CFR 172.

One-Step RFP

The One-Step RFP method may be used for Project-specific contracts when the scope of work is well-defined or for Multi-phased contracts where the defined scope of work is divided into phases. Other considerations include when the consultant's services are highly specialized and there are few qualified consultants.

One-Step RFQ

The One-Step RFQ method is used when the requested services are specialized, or the scope of work is defined broadly and may include multiple projects. Typical services are preliminary engineering, surveying, environmental studies, preparation of Plans Specifications and Estimate (PS&E) and environmental documents, or construction management. This method or the two-step selection process is used for procurement of on-call contract(s). Note that specifications and requirements in the RFQ must cover all aspects of the final need. An RFP specific to the project, task, or service must be included in the solicitation for evaluation of a consultant's specific technical approach and qualifications.

Two-Step (RFQ Followed by RFP)

The Two-Step RFQ/RFP method may be used when the scope of work is complex or unusual. This method also may be preferred by LPAs that are inexperienced about negotiations and procedures for establishing compensation. However, the Two-Step RFQ/RFP method is recommended for procurement of multiple on-call contracts, or on-call list, through a single solicitation. Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under a RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications. For more information, refer to description of on-call contract in [Section 10.1.2: Identifying & Defining a Need for Consultants](#). This method requires substantially more work and time than the other two methods described above.

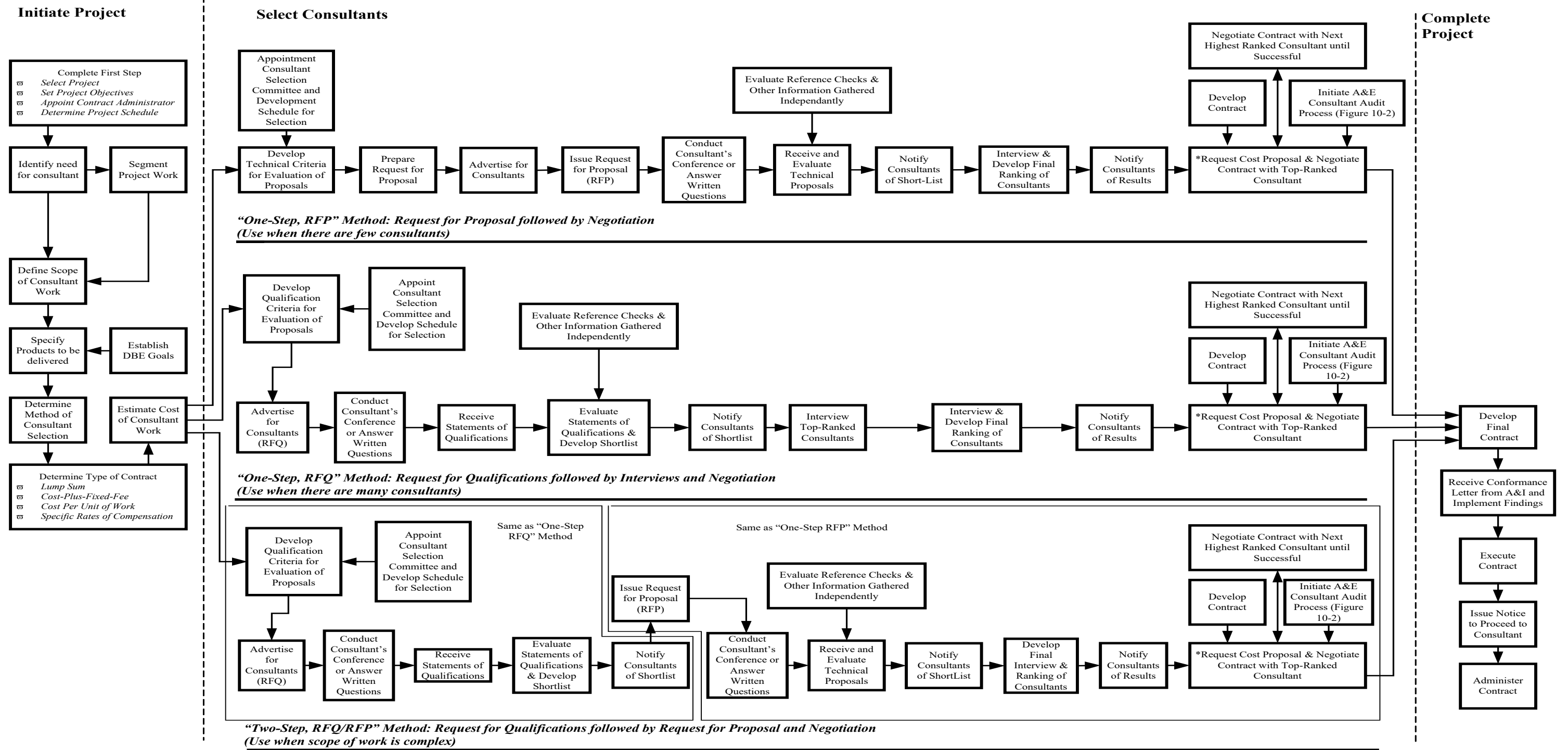


Figure 10-4: Consultant Selection Flowchart

10.1.5 Consultant Selection Using the One-Step RFP Method

Of the three methods discussed, this one is most easily modified for non-A&E consulting contracts. This procurement procedure usually involves a single step process with issuance of a request for proposal (RFP) to all interested consultants. For non-A&E consulting contracts, a cost proposal must be part of the RFP and the selection criteria. For A&E contracts, the cost proposal is not requested until the consultants have been final ranked based upon their submitted technical proposal.

Appoint Consultant Selection Committee

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The committee reviews materials submitted by consultants, develops a shortlist of qualified consultants, and develops a final ranking of the most qualified proposals. Representation on the committee includes the Contract Administrator and subject matter experts from the project's functional area. The members should be familiar with the project/segment to be contracted out and with the LPA standards that will be used in the contract. Participation by a Caltrans district representative is at the option of the agency and subject to availability of the DLAE staff. Caltrans participation on the interview panel does not relieve the LPA of its responsibility to ensure that proper procurement procedures are followed, and all requirements are met.

LPA Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement prior to selection process initiation. A sample conflict of interest form is provided in [Exhibit 10-T: Conflict of Interest & Confidentiality Statement](#).

Develop Technical Criteria for Evaluation of Proposals

The Contract Administrator is responsible for developing the technical criteria, and their relative importance which are used to evaluate and rank the consultant proposals. In-State or local preference must not be used as factor in the evaluation, ranking, and selection phase. All non-technical evaluation criteria, including DBE participation, must not exceed 10 percent (23 CFR 172.7(a)(1)(iii)(D)). All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.

The criteria and relative weights must be included in the RFP, and the same criteria and relative weights must be used in the evaluation sheets. Failure to include criteria and relative weights and to use the same criteria and weights during the evaluation will result in the contract costs being ineligible for federal or state reimbursement. [Exhibit 10-B: Suggested Consultant Evaluation Sheet](#) is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost is not used as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state. The LPA should consult with the DLAE before making major changes to the suggested approach.

Develop Schedule for Consultant Selection

Before the contract is advertised, the Contract Administrator completes a contract procurement schedule including key dates for consultant selection activities. The Contract Administrator should confirm key dates with all selection committee members before completing the schedule.

Prepare RFP

The information required in an RFP solicitation includes the following:

- Description of project;
- Clear, accurate, detailed Scope of work, technical requirements, and qualifications;
- Services to be performed;
- Deliverables to be provided;
- Procurement schedule;
- Applicable standards, specifications, and policies;
- Schedule of work (including estimated start and end dates of the contract);
- Method of payment, and cost proposal requirements. The cost proposal is submitted in a separate concealed format. Cost proposals are requested from the highest ranked firm. If these negotiations are formally terminated, the cost proposal is then requested from the next highest ranked firm. See [sample cost proposals at the A&E website](#);
- Contract audit and review process requirements (see [Section 10.1.3: A&E Consultant Audit and Review Process](#));
- Proposal format and required contents;
- Method, criteria, and weighting for selection;
- Requirements for any discussions that may be conducted with three or more of the most highly qualified consultants following submission and evaluation of proposals;
- Specify contract type;
- Special provisions or contracts requirements;
- A DBE contract goal is specified in the solicitation (see [Exhibit 10-I: Notice to Proposers DBE Information](#)), if a federal-aid contract;
- CMSR requirements (see [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#));
- Protest procedures and dispute resolution process per 2 CFR 200.318(k) and 23 CFR 172.5(c)(18).
- Title VI of the Civil Rights Act of 1964 – disadvantage business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

The RFP specifies the content of a proposal, the number of copies required, due date, mailing address, and a physical address where the submittals may be hand-delivered if different from the mailing address. A minimum of fourteen (14) calendar days is required between the time the RFP is published and time that proposals must be submitted. More time may be required for complex contracts or projects.

Items typically required in a technical proposal include:

- Work plan (specify what is to be covered);
- Organizational chart;
- Schedule and deadlines;
- Staffing plan;
- Proposed Team—complete for prime consultant and all key subconsultants;
- Key personnel names and classifications—key team members identified in the original proposal/cost proposal must not change (be different than) in the executed contract;
- Staff resumes;
- Names of consultant’s project manager and the individual authorized to negotiate the contract on behalf of the consulting firm;
- Consultant DBE Commitment document, see [Exhibit 10-O1: Consultant Proposal DBE Commitment](#);
- References.

Financial Management and Accounting System Requirements

The LPA must ensure that consultant contract solicitation and advertising documents (RFPs) clearly specify that contracts must not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR 16.301-3, 2 CFR 200, and 48 CFR 31. The LPA must ensure the selected consultants have adequate financial management systems as required by the applicable federal regulations.

Advertise for Consultants

The solicitation process for consultant services must be by public advertisement, or by any other public forum or method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of contract. The minimum length of advertisement is 14 calendar days.

Advertisement of the RFP in a major newspaper of general circulation, technical publications of widespread circulation, professional associations and societies, recognized DBE organizations, web hosting or clearing houses known for posting government contract solicitations such as BidSync, Planetbids, Public Purchase, or posting the RFP on the LPA’s or other widely used websites are all acceptable methods of solicitation.

To document website postings, the LPA should retain copies of screen shots displaying the posted begin/end dates.

The LPA must keep a record of all consultants that have downloaded RFP online as well as those receiving an RFP through other means, to ensure that any inquiry responses, addendums, or amendments to the RFP are given to all consultants that received the RFP.

Conduct Proposer’s Conference or Answer Written Questions

The LPA may allow for clarification of the RFP by inviting submittal of written questions or by conducting a proposer’s conference, or by doing both. The LPA must publish or mail their responses to any written questions to all consultants receiving the RFP. No response should be given to verbal questions. It is important that all competing consultants receive the same

information. If a proposer's conference is to be held, the exact time and place must be specified in the RFP. Attendance at a proposer's conference normally is not mandatory. However, consultants not attending the conference do not receive notes from the meeting unless they request the notes.

Receive and Evaluate Technical Proposals

The Contract Administrator must verify that each proposal contains all of the forms and other information required by the RFP. If all required information is not provided, a proposal may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and must be rejected. Submittal of additional information after the due date must not be allowed.

Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended. The members of the consultant selection committee must evaluate each proposal according to the technical criteria listed in the RFP. Minimum of three proposals must be received and evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement. The justification should state that the solicitation did not contain conditions or requirements that arbitrarily limited competition per 23 CFR 172(a)(1)(iv)(D) and competition is determined to be inadequate and it is not feasible or practical to re-compete under a new solicitation per 23 CFR 172(a)(3)(iii)(C). If only one proposal is received, a Non-Competitive process must be justified and an Exhibit 12-F must be documented and signed by the DLAE. In either case, the re-advertisement of the RFP should be considered as an option.

The committee must also evaluate reference checks and other information gathered independently. Reference checks must be completed, and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

Develop Final Ranking and Notify Consultants of Results

The selection committee evaluates each proposal, interviews the three or more highest ranked consultants (short listed) if noted in solicitation, and develops a final ranking of the highest ranked consultants. All consultants that submitted proposals must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not the highest ranked. The LPA may have an established procedure adopted for conducting debriefings but may also consider the following: The selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective reasons. The consultant should not be compared to others and should not be provided with information about other consultants during this debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

Negotiate Contract with Top-Ranked Consultant

Cost proposal (for both Prime and all Subconsultant), and contract audit and review documents such as the Certification of Indirect Costs and Financial Management System and Financial Document Review Request forms, whichever is applicable (see [Section 10.1.3: A&E Consultant Audit and Review Process](#)) should be submitted in a separate sealed envelope. Typically, the

cost proposals are submitted by the short-listed consultants only, at time of interview. However, if time is of the essence and it can be justified, or if no interviews are planned, the cost proposal can be requested from all consultants with their technical proposal.

The cost proposal for the most qualified consultant will be opened and used to begin negotiations. If agreement cannot be reached, then negotiations proceed to the next most qualified consultant. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant. The goal of negotiations is to agree on a final contract that delivers the services, or products required at a fair and reasonable cost to the LPA. At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals must be returned to consultants.

Cost proposals in electronic form must be submitted separately from the RFP and contained in a secure database that is inaccessible to the members involved in the A&E consultant contract procurement process. Only the cost proposal of the most qualified consultant will be requested to be sent to the members. Cost proposals of unsuccessful consultants are confidential and must not be opened by the LPA or any private entity that the LPA uses to store the cost proposals. Any concealed cost proposals of the unsuccessful consultants must be returned unopened or properly disposed of in accordance with the LPA's written policies and procedures.

The independent cost estimate, developed by the LPA in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations or terminating unsuccessful negotiations with the most qualified consultant. Items necessary for the independent cost estimate include, hours/detailed work, direct labor costs, indirect labor costs, other direct costs, and profit/fee. Agencies must retain documentation of how the cost estimate was developed. It can be revised, if needed, for use in negotiations with the next most qualified consultant. A contract audit and review may be required (see [Section 10.1.3: A&E Consultant Audit and Review Process](#) in this chapter). LPA Contract Administrator ensures that all required documentations are provided to Caltrans IOAI within 10 days of written request, including all documents for a Financial Review, if applicable. Caltrans IOAI will not proceed with a Financial Document Review until all required documentation is completed correctly and submitted. Negotiations should be finalized after addressing all deficiencies noted in the Caltrans IOAI Financial Review Letter if applicable. An indirect cost audit may be performed within the record retention period of the contract.

Items typically negotiated include:

- Work plan;
- Schedule and deadlines (for deliverables and final duration of contract);
- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;
- Cost items, payments, and fees. Fee is required to be negotiated as a separate element;
- Hours, level of effort by task and/or classification.

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the LPA. The LPA and the consultant will agree on the final cost proposal and incorporate into final contract. Retain all documentation related to negotiations.

Before executing the consultant contract, the LPA must review contract to ensure that all federal and state requirements have been met and adjustment or denial of ICR as identified in the Financial Review Letter has been included in the final cost proposal, if applicable.

Prior to contract award, or after contract award but no later than the first invoice, the LPA must submit a completed A&E Consultant Contract form for all new federal funded A&E consultant contracts using the database at:

<https://dla.dot.ca.gov/fmi/webd/AE%20Consultant%20Contract%20Form> (please use Firefox or Chrome if not supported by your browser). Submission of the A&E Consultant Contract form is not required for non-A&E consultant contracts.

If there are any changes requiring an amendment to the contract after submittal of the A&E Consultant Contract form, refer to Section 10.1.8: Contract Amendments.

10.1.6 Consultant Selection Using the One-Step RFQ Method

The RFQ method is used when the services being procured are specialized, or the scope of work is defined broadly and may include multiple projects.

Appoint Consultant Selection Committee

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The committee reviews and scores the materials submitted by consultants in response to the RFQ, develops a shortlist of qualified consultants, interviews those consultants, and develops a final ranking of the most qualified consultants. Representation on the committee includes the Contract Administrator and subject matter experts from the project's functional area. The members should be familiar with the scope of work to be contracted out and with the LPA standards that will be used in the contract.

Participation by a Caltrans district representative is at the option of the LPA and subject to the availability of the DLAE staff. Caltrans participation on the interview panel does not relieve the LPA of its responsibility to ensure that proper procurement procedures are followed, and all requirements are met.

LPA Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement prior to selection process initiation. A sample conflict of interest form is provided in [Exhibit 10-T: Panel Member Conflict of Interest & Confidentiality Statement](#).

Develop Technical Criteria for Evaluation of Qualifications

The Contract Administrator is responsible for developing the technical criteria, and their relative importance which are used to evaluate and rank the consultant qualifications. The criteria and relative weights must be included in the RFQ, and the same criteria and relative weights must be used in the evaluation sheets. Failure to include criteria and relative weights and to use the same criteria and weights during the evaluation will result in the contract costs being ineligible for federal or state reimbursement. [Exhibit 10-B: Suggested Consultant Evaluation Sheet](#) is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost is not used as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state. The LPA should consult with the DLAE before making major changes to the suggested approach.

Develop Schedule for Consultant Selection

Before a contract is advertised, the Contract Administrator completes a contract procurement schedule including key dates for consultant selection activities. The Contract Administrator should confirm target dates with all selection committee members before completing the schedule.

Prepare RFQ

As a minimum, the RFQ generally includes the following:

- General description of the services or project(s);
- Scope of work;
- Schedule of work (including contract begin and end dates);
- Method of payment, and cost proposal requirements. The cost proposal is submitted in a separate sealed envelope. See sample cost proposals at the A&E [website](#);
- Contract audit and review process requirements (see [Section 10.1.3: A&E Consultant Audit and Review Process](#));
- Statement of Qualification (SOQ) format and required content to be submitted;
- Method and criteria and weights for selection;
- A DBE contract goal is specified in the solicitation (see [Exhibit 10-I: Notice to Proposers DBE Information](#)), if a federal-aid contract;
- Consultants acting in a management support role requirements [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#); Protest procedures and dispute resolution process per 2 CFR 200.318(k).

The RFQ specifies the content of the SOQ, the number of copies required, due date, mailing address, and a physical address where the submittals may be hand-delivered if different from the mailing address. Two to four weeks is usually allowed between the time the RFQ is published and time that SOQs must be submitted. More time may be required for complex contracts or scope of work.

Items typically required in a statement of qualification include:

- Qualifications of key personnel (including consultant project manager) proposed for the contract. Key team members identified in the original proposal/cost proposal must not change (be different than) in the executed contract;
- Staff resumes;
- Related projects that key personnel have worked on;
- Qualifications/experience of the firm;
- Organizational chart;
- Forecast or Schedule of work;
- Consultant DBE Commitment document, see [Exhibit 10-O1: Consultant Proposal DBE Commitment](#);

- References.

Financial Management and Accounting System Requirements

The LPA must ensure that Consultant contract solicitation and advertising documents (RFQs) clearly specify that contracts must not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR 16.301-3, 2 CFR 200, and 48 CFR 31. The LPA must ensure the selected consultants have adequate financial management systems as required by the applicable federal regulations.

Advertise for Consultants

The solicitation process for consultant services must be by public advertisement or any other public forum or method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of contract. The RFQ must contain sufficient project work information, so that interested consultants can submit an appropriate SOQ.

Advertisements for RFQ may take one of two approaches. The most common is an advertisement or publication of the RFQ in a major newspaper of general circulation, technical publication of widespread circulation, professional associations and societies, recognized DBE organizations, web hosting or clearing houses known for posting contract solicitations such as Bid Sync, PlanetBids, or posting the RFQ on other widely used websites. To document website postings, the LPA should retain copies of screen shots displaying the posted begin/end dates.

In the second approach, the LPA advertises the availability of the RFQ in a major newspaper of general circulation, technical publications of widespread circulation, professional associations and societies, recognized DBE organizations, or through a web hosting or clearing houses known for posting contract solicitations such as BidSync or PlanetBids, and requests that interested consultants send a letter of interest to the LPA for the RFQ. The RFQs must then be sent to those firms who indicated interest in the RFQ. In some cases, it may be desirable to advertise nationwide for a particular project or service. This approach provides a registry for firms who received the RFQ and therefore facilitates the broadcast of any revisions or addenda to the RFQ, if necessary.

Issue/Publish RFQ

The LPA must publish the RFQ online and also issue the RFQ to all consultants responding to newspaper advertisement. The LPA must keep a record of all consultants that have downloaded the RFQ online as well as those receiving an RFQ through other means, to ensure that any inquiry responses, addendums, or amendments to the RFQ are given to all consultants that received the RFQ.

Receive/Evaluate Statements of Qualifications and Develop Shortlist

The first step in the evaluation process is to determine that each SOQ contains all forms and other information required by the RFQ. Otherwise, the submittals may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, and submittals with inadequate copies are considered nonresponsive and must be rejected. Submittal of additional information after the due date must not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

Minimum of three proposals must be received and evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement. If only one proposal is received, a Non-Competitive process must be justified, and an Exhibit 12-F must be documented and signed by the DLAE. In either case, the re-advertisement of the RFP should be considered as an option.

The consultant selection committee reviews the submitted SOQ according to the published evaluation criteria and weighting factors. The committee makes an independent random check of one or more of the consultant's references. This check applies to major subconsultants also. The committee establishes a shortlist of consultants who are considered to be best qualified to perform the contract work. The shortlist includes enough qualified consultants to ensure that at least three consultants are interviewed.

Notify Consultants of Shortlist

All consultants that submitted an SOQ must be notified of the results of the review. The notification also identifies those consultants (short list) that will be requested to attend interviews if interviews were an option in the solicitation. Most consultants will request information as to why they were not placed on the shortlist. Therefore, the selection committee should keep notes why a particular consultant was not selected for the shortlist. When a consultant requests a debriefing, the reasons given for not being selected must be objective reasons. Consultants should not be compared with each other during the debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

Interview Top-Ranked Consultants

Each consultant to be interviewed is given a copy of the draft of the proposed contract, defining the detailed scope of work, and/or description of required services, and other information. This should be sent with the initial notification of the interview.

Between the time of the notification of the shortlist and interviews, the LPA may answer any questions concerning the scope of work to be contracted out, if not done earlier during the solicitation. In addition, the LPA may conduct additional reference checks for each consultant to be interviewed. Consultants should submit their questions about the RFQ and receive their answers from the LPA in writing. It is required that all consultants on the shortlist receive the questions and answers and are given the same information.

The committee should evaluate reference checks and other information that is gathered independently. Reference checks must be completed, and other information gathered before the interviews are conducted. If necessary, the results of the reference checks and other information may be discussed with the consultant at the interview.

Interviews are to be structured and conducted in a formal manner. Each consultant must be allowed the opportunity to make a presentation if desired; however, a time limit should be specified. Interview questions are prepared in advance.

Two types of questions may be asked:

- Questions that are to be asked of all competing consultants, and
- Questions relating to each specific consultant, based upon the reference checks, and the strengths and weaknesses identified during evaluation of the SOQ

The agency can request competing consultants to bring additional information or examples of their work to the interviews; if the additional information facilitates the interview or evaluation process. Additional information requested should be kept at a minimum, that is, only information required to select the most qualified consultant for the contract. The selection committee or LPA must not gather additional information concerning the consultants after the interviews are completed.

Develop Final Ranking and Notify Consultants of Results

All consultants interviewed must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not selected as the most qualified. Therefore, the selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective. Consultants should not be compared with each other or provided with information about other consultants during the debriefing.

Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing. The next two sections provide guidance when the RFQ is solicited for specialized services and additional information is required prior to cost negotiations with consultant. For on-call contracts, skip the next two sections and begin Negotiation phase.

Conduct Scoping Meeting

The Contract Administrator should meet with the first-ranked consultant's project manager to review the project, and to ensure that the consultant has a complete understanding of the work that is required. The consultant is shown as much material as is available regarding the project. Any technical questions regarding the project are answered for the consultant.

Request Cost Proposal

The first-ranked consultant is asked to provide a cost proposal to perform the work described in the draft contract and discussed at the scoping meeting. The work is to be performed according to the conditions described in the draft contract using the payment method described therein. Alternatively, if time is of the essence and it can be justified, sealed cost proposals may be requested from all of the consultants on the shortlist.

If the contract involves more than one project, the consultant must provide a separate cost proposal for each project in addition to a summary cost proposal for the total contract. If the contract involves milestones, the consultant must furnish a separate cost proposal for each milestone with a summary cost proposal for the total costs. If the contract involves subconsultants, the prime consultant must include a separate cost proposal for each subconsultant. Each subconsultant's cost proposal must follow the same format as the prime consultant's cost proposal.

Negotiate Contract with Top-Ranked Consultant

Cost proposals (for both Prime and all Subconsultant), and contract audit and review documents such as Certification of Indirect Costs and Financial Management System and Financial Document Review Request forms, whichever applicable (see [Section 10.1.3: A&E Consultant Audit and Review Process](#)), will be submitted in a separate sealed envelope. Typically, the cost

proposals are submitted by the short-listed consultants only, at time of interview. However, if time is of the essence and it can be justified, or if no interviews are planned, the cost proposal can be requested from all consultants with their statements of qualification.

After the top-ranked consultant submits a sealed cost proposal, the LPA reviews the cost proposal and compares it with the LPA's confidential detailed independent cost estimate and enters into negotiations. The goal of negotiation is to agree on a final contract that delivers to the LPA the services or products required at a fair and reasonable cost. The independent cost estimate, developed by the LPA in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations.

Negotiations should commence with the most qualified consultant. If agreement on a fair and reasonable price cannot be reached, negotiations should then be formally terminated. Negotiations then proceed to the next most qualified consultant, and so on. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant.

At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals must be returned to consultants.

Cost proposals in electronic form must be submitted separately from the RFQ and contained in a secure database that is inaccessible to the members involved in the A&E consultant contract procurement process. Only the cost proposal of the most qualified consultant will be requested to be sent to the members. Cost proposals of unsuccessful consultants are confidential and must not be opened by the LPA or any private entity that the LPA uses to store the cost proposals. Any concealed cost proposals of the unsuccessful consultants must be returned unopened or properly disposed of by permanently deleting the cost proposals in accordance with LPA's written policies and procedures.

A contract audit and review may be required (see [Section 10.1.3: A&E Consultant Audit and Review Process](#) earlier in this chapter). LPA Contract Administrator is responsible for the submittal of all required documentations to Caltrans IOAI in a timely fashion, including all documents for a Financial Review, if applicable. Caltrans IOAI will not proceed with a Financial Review until all required documentation is completed correctly and submitted. Negotiations may be completed after receipt of the Caltrans IOAI Financial Review Letter. An indirect cost audit may be performed within the record retention period of the contract.

The items typically negotiated include:

- Work plan;
- Staffing plan;
- Schedule (including contract begin and end dates);
- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;
- Cost items, payments, and fee. Fee is required to be negotiated as a separate element.

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the LPA. For on-call contracts, typically a price agreement is reached based on specific rate of compensation for the term of the contract. The subsequent task orders (or mini agreements for

individual project work) is negotiated based on cost plus fee, or lump sum, which is derived from the wage rates agreed upon earlier for the on-call contract.

Before executing the consultant contract, the LPA must review the contract to ensure that all federal and state requirements have been met, and receive Caltrans IOAI's Financial Review acceptance letter, if applicable.

Prior to contract award, or after contract award but no later than the first invoice, the LPA must submit a completed A&E Consultant Contract form for all new federal-funded A&E consultant contracts using the database at <https://dla.dot.ca.gov/fmi/webd/AE%20Consultant%20Contract%20Form> (please use Firefox or Chrome if not supported by your browser).

If there are any changes to the contract after submittal of the A&E Consultant Contract form, refer to Section 10.1.8: Contract Amendments.

10.1.7 Consultant Selection Using the Two-Step RFQ/RFP Method

Combined RFQ and RFP

Selecting consultants using the Two-Step RFQ/RFP method requires combining certain steps from each of the other two methods previously described. The consultants are rated based upon both their qualifications and their technical proposals. This procurement procedure involves a two-step process with issuance of a request for qualifications (RFQ) whereby responding consultants are evaluated and ranked based on qualifications and an RFP is then provided to three or more of the most highly qualified consultants. The two-step method leads to an executed project specific contract.

A different process may also be used that includes assessing minimum qualifications of consultants to perform services under general work categories or areas of expertise through a prequalification process whereby annual statements of qualifications and performance data are encouraged. These consultants are not ranked, and an RFP must be submitted to the entire list for evaluation and consideration. Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under a RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications.

The initial steps in this method (up to the development and notification of the shortlist) are similar to the steps followed when using the One-Step RFQ method. At this point, the consultants from the shortlist are issued an additional RFP. The remaining steps are the same as the later steps followed in the One-Step RFP method. The combination of these steps is indicated in Figure 10-4: Consultant Selection Flowchart. Because it is a combination of the One-Step RFQ and One-Step RFP methods, this method of consultant selection requires more work and time than the other two methods. Consequently, the combined RFQ/RFP method is recommended for use only when the scope of work is not clearly known, very complex, or unusual.

The Two-Step RFQ/RFP is also well-suited for procuring multiple on-call contracts through a single solicitation (see [Section 10.1.2 Determine Type of Contract](#)). The outcome of the first step RFQ will be multiple contracts, or on-call list of consultants. For multiple on-call contracts, project work will be procured through subsequent competition or mini-RFPs amongst the on-call consultants.

LPAs may also use the Two-Step RFQ/RFP method to:

1. Develop and maintain a pre-qualified file/list of consultant firms by specific work categories or areas of expertise. This list includes all consultants that meet the minimum published pass/fail requirements. The pre-qualified list can be updated annually or at least every two years and must be maintained by the agency. This list has not gone through the evaluation process.
2. Create a short list of evaluated and ranked consultants that leads to executed contracts

Because it is a combination of the One-Step RFQ and One-Step RFP methods, this method of consultant selection requires more work and time than the other two methods. Consequently, the combined RFQ/RFP method is recommended for use when the scope of work is very complex or unusual.

Categorize work

Descriptions of the categories of work, deliverables, and the minimum qualification standards for each category must be clearly identified.

The LPA may prequalify consulting firms in the following (or more) categories:

- Roadway Design
- Bridge Design
- Bridge Inspection
- Traffic Engineering
- Environmental Services
- Roadway Construction Inspection and Administration
- Landscape Architecture
- Land Surveying
- Intelligent Transportation System (ITS)
- Federal-aid Highway Project Development Support Services

Establish Minimum Qualifications

In an effort to ensure quality performance and results, a consultant should be required to meet certain minimum qualifications to be eligible for consideration in the pre-qualification process.

General criteria guidelines should be established for consultant selection for a pre-qualified list. The criteria may be established by an individual or a panel of subject matter experts for the specific task of developing the criteria. Some agencies also establish appropriate weights for each criterion. It may be necessary to modify the criteria to fit specific cases. When a RFQ is published, it should state the criteria that will be used in the selection process.

Criteria for evaluating statements of qualifications, may include but are not limited to:

- Special expertise and experience of the firm's key employees
- Proposed staffing (include number of licensed and specialized staff) for the project and previous experience of those identified

- Experience of the firm and their personnel on previous projects similar to the one under consideration
- Consultant DBE Commitment document (see [Exhibit 10-O1](#))
- Professional references by the firm with the LPA
- Understanding of the project by the firm as demonstrated by their approach to organizing and management of the work
- Current workload of the firm and their ability to meet the proposed project schedule
- Quality of previous performance by the firm with the LPA
- Use of sub-consultants to accomplish work on the project
- Equipment the firm has available and proposes to use as compatibility with Computer-Aided Drafting and Design (CADD) and other equipment proposed to be used in accomplishing the work
- Familiarity with federal, state, and local codes, requirements, standards, and procedure
- Examples of minimum qualifications for work categories above are provided here based on Caltrans best practices

Issue RFQ

The need for services of a consulting firm may be advertised in appropriate national, state, and local publications and web sites. Notices can also be sent to firms known to be qualified to do specific work, to professional societies, and to recognized Disadvantaged Business Enterprises (DBE) organizations. The advertisements and notices seek statements of interest and qualifications from consultants who are interested in the project. The DBE goal is established at the master on-call contract and included in the solicitation document.

The SOQ should list consulting firm details, names of principals, office locations, personnel by discipline, project experience and examples, current workload, types of service the firms are qualified to perform, and previous performance. Also, resumes of key persons, specialists, and other associates that may be assigned to the project or projects should be included. This information should be the basis for evaluating and placing a consulting firm on a general pre-qualification list.

Federal regulations require that any procedures related to pre-qualifying consultants cannot restrict competition.

Pre-qualification of consultants may be allowed as a condition for submitting a technical proposal for a contract only if the period between the date of the issuance of the RFP and the deadline for submitting a technical proposal affords sufficient time to enable a consultant to obtain pre-qualification status.

Another practice is to qualify consultants on a project-by-project basis. This is accomplished for some agencies by advertising or publishing notices in national, state, and local publications for needed services for specific, individual projects. These notices include a precise project location, a defined preliminary scope of services to be performed, a specific schedule within which the work is to be completed, and a list of products and deliverables to be provided by the consultant. Specific project advertisements usually are published when the proposed project is

large and complex, in-house resources are not available, special expertise is required, or the objectivity of an outside authority is desired.

Appropriate Federal-aid requirements should be complied with on Federal-aid projects.

Set-Up Evaluation Process

The first step in the evaluation process is to determine that each SOQ contains all forms, qualifications, and other information required by the RFQ. Otherwise, the submittals may be considered nonresponsive and rejected without evaluation. Documentation of when each SOQ was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

If all required information is not provided, a SOQ may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and must be rejected. Submittal of additional information after the due date must not be allowed.

The LPA must establish a process by which SOQs are evaluated and consultants who are deemed meeting the minimum qualifications are accepted and placed on a pre-qualified list. Whether the LPA has a "committee" of experts evaluating the SOQs or individuals responsible for the evaluation, the process must be well-defined, open, and transparent. The pre-qualification process must also allow for consultants to be re-evaluated in cases of denials. The LPA must specify how long the pre-qualified list lasts, not to exceed two years. Federal regulation recommends refreshing the SOQs on an annual basis.

LPA Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement prior to selection process initiation. A sample conflict of interest form is provided in [Exhibit 10-T](#).

Evaluate Qualifications and Add Firm to List

All SOQs received should first be reviewed for completeness. Each response must contain all required forms and any other information requested in the advertisement. The response may be considered incomplete and rejected without further evaluation if all required information is not provided or if the submittal is late.

The qualifications of all responding firms are then reviewed according to established evaluation criteria or factors. The agency then establishes a short list of at least three consultants that are determined to be the most highly qualified to perform the required work. Firms not selected should be notified in writing.

Maintain List

Pre-qualification of a consultant expires in two years. Pre-qualified consultants must renew their pre-qualification status every two years. Firms can apply to be on the list at any time. After a period of two years, firms should re-apply (repeat the process of submitting SOQs) to be on the list. In addition to the required two-year renewal process, the consultant should also be required to update the firm's organizational structure within one year when there is a corporate/affiliate change, ownership control, type of work expertise, capacity, or any other major change.

If the consultant does not meet the minimum requirements and their SOQ is rejected, the committee must respond to the consultant explaining the reason for their rejection. The

consultant is allowed to reapply to be on the list again provided the reasons for rejection are corrected.

The list of qualified firms can be maintained online through the agency's website. Firms can also apply to be on the list through the agency website for ease of operation.

Issue RFP to Pre-Qualified Consultants on List

An RFP is sent to the short-listed firms. The RFP should indicate the content of the technical proposal, technical review procedures, anticipated schedule of activities, scope of work, project description, where the technical proposals are to be delivered, the number of copies required, and the due date.

Some agencies receive the technical proposal orally as part of an interview conducted for this purpose. In these cases, written documentation may not be required.

Items typically required in a technical proposal include:

- Work plan
- Organization plan
- Schedule for meeting time frame
- Available computer equipment and programs
- Staffing plan and resumes including sub-consultants
- Pre-award audit/financial package information (if deemed appropriate)
- Examples of similar work previously completed
- Sub-consultants, DBE, their proposed participation, and other related information

Conduct Proposer's Conference or Answer Written Questions

The LPA may allow for clarification of the RFP by inviting submittal of written questions or by conducting a proposer's conference, or by doing both. The LPA must publish or mail their responses to any written questions to all consultants receiving the RFP. No response should be given to verbal questions. It is important that all competing consultants receive the same information. If a proposer's conference is to be held, the exact time and place must be specified in the RFP. Attendance at a proposer's conference normally is not mandatory. However, consultants not attending the conference do not receive notes from the meeting unless they request the notes.

Receive and Evaluate Technical Proposals

The Contract Administrator must verify that each technical proposal contains all forms and other information required by the RFP. If all required information is not provided, a technical proposal may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and must be rejected. Submittal of additional information after the due date must not be allowed. Documentation of when each technical proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The members of the consultant selection

committee must evaluate each technical proposal according to the technical criteria listed in the RFP. A minimum of three technical proposals must be received and evaluated.

If only two technical proposals are received, a justification must be documented to proceed with the procurement. If only one technical proposal is received, a Non-Competitive process must be justified, and an Exhibit 12-F must be documented. In either case, the re-advertisement of the RFP should be considered as an option.

The committee must also evaluate reference checks and other information gathered independently. Reference checks must be completed, and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

Develop Final Ranking and Notify Consultants of Results

The selection committee discusses and documents the strengths and weaknesses of each technical proposal, interviews the three or more highest ranked consultants (shortlisted), and develops a final ranking of the highest ranked consultants. All consultants that submitted technical proposals must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not the highest ranked. Therefore, the selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective reasons. The consultant should not be compared to others and should not be provided with information about other consultants during this debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

Request Cost Proposal and Negotiate Contract with Top-Ranked Consultant

The first-ranked consultant is asked to provide a cost proposal to perform the work described in the draft contract and discussed at the scoping meeting. The work is to be performed according to the conditions described in the draft contract using the payment method described therein. Alternatively, if time is of the essence and it can be justified, sealed cost proposals may be requested from all of the consultants on the shortlist.

If the contract involves more than one project, the consultant must provide a separate cost proposal for each project in addition to a summary cost proposal for the total contract. If the contract involves milestones, the consultant must furnish a separate cost proposal for each milestone with a summary cost proposal for the total costs. If the contract involves subconsultants, the prime consultant must include a separate cost proposal for each subconsultant. Each subconsultant's cost proposal must follow the same format as the prime consultant's cost proposal.

Cost proposals (for both prime and all subconsultants) and contract audit and review documents, such as Certification of Indirect Costs and Financial Management System and Financial Document Review Request forms, whichever applicable (see [Section 10.1.3: A&E Consultant Audit and Review Process](#)), will be submitted in a separate sealed envelope.

After the top-ranked consultant submits a sealed cost proposal, the LPA reviews the cost proposal and enters into negotiations. The goal of negotiation is to agree on a final contract that delivers to the LPA the services or products required at a fair and reasonable cost. The

independent cost estimate, developed by the LPA in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations.

Negotiations should commence with the most qualified consultant. If agreement on a fair and reasonable price cannot be reached, negotiations should then be formally terminated. Negotiations then proceed to the next most qualified consultant, and so on. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant. At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals must be returned to consultants.

A contract audit and review may be required (see [Section 10.1.3: A&E Consultant Audit and Review Process](#)). The LPA Contract Administrator is responsible for the submittal of all required documentations to Caltrans IOAI in a timely fashion, including all documents for a Conformance Review, if applicable. Negotiations may be completed after receipt of the Caltrans IOAI Conformance Letter. An indirect cost audit may be performed within the record retention period of the contract.

Items typically negotiated include:

- Work plan
- Schedule and deadlines (for deliverables and final duration of contract)
- Products to be delivered
- Classification, wage rates, and experience level of personnel to be assigned
- Other Direct Cost items, and profit or fee

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the LPA.

The LPA and the consultant will agree on the final cost proposal and incorporate into final contract.

Before executing the consultant contract, the LPA must review the contract to ensure that all federal and state requirements have been met.

10.1.8 Completing the Project

Develop the Final Contract

The Contract Administrator requests a revised cost proposal from the consultant after: (1) negotiations have been completed, (2) the LPA and consultant have agreed to a fair and reasonable price, and (3) a letter, if applicable, is released by Caltrans IOAI that accepts, denies, or makes an adjustment to the proposed ICR. The Contract Administrator should review the revised cost proposal to ensure that all the items and changes discussed during negotiation were included. This revised cost proposal then becomes the final cost proposal and is attached to and made a part of the consultant contract. Sample contract language and format have been included as [Exhibit 10-R: A&E Boilerplate Agreement Language](#).

The Contract Administrator has responsibility to ensure that the final negotiated contract is complete and has verified that all required backup documents have been provided. Copies of the contract are sent to the consultant for signature first.

Review and Approval of Contracts

Proposed contracts for consultant services (including subcontracted work) must be reviewed by the LPA to verify that:

- Compensation is fair and reasonable and includes prevailing wage rates, if applicable;
- Work activities and schedules are consistent with the nature and scope of the project;
- DBE goal [Exhibit 10-O2: Consultant Contract DBE Commitment](#) is included for all contracts regardless of goal;
- Certification of Indirect Costs and Financial Management System (for Prime and Subs) and Financial Document Review Request forms and all supporting documents, if applicable (contracts at or above **\$1 Million**), have been submitted to Caltrans IOAI;
- If applicable, adjustment or denial of the ICR identified in the Financial Review Letter have been included in the final cost proposal;
- [A&E Consultant Contract database](#) must be used to ensure that required documentation has been provided;
- A cost proposal must include the costs of materials, direct salaries, payroll additions, other direct costs, indirect costs, fees, and backup calculations.

Before approving a contract for consulting services, the Contract Administrator must be satisfied that the consultant's organization:

- Is qualified to perform the services required;
- Is in a position, considering other work commitments, to provide competent and experienced personnel to perform the services in the time allowed;
- Is fully aware of all applicable federal and state laws including implementing regulations, design standards, specifications, previous commitments that must be incorporated into the design of the project, and administrative controls including those of Caltrans and FHWA.
- Has an adequate financial management system as required by the applicable federal regulations.
- Is not disbarred or suspended from state or federally-funded contracts. Per 23 CFR 172.7(b)(3) "A contracting agency shall verify suspension and debarment actions and eligibility status of consultants and subconsultants prior to entering into an agreement or contract in accordance with 2 CFR 1200 and 2 CFR 180."

The contract must provide for a defined level of acceptability and a statement to the effect that the consultant may be required to modify its work as necessary; to meet that level of acceptability as defined in the contract. The contract must provide for LPA reviews at appropriate stages during performance of the work, to determine if any changes or other actions are warranted.

The contract must provide that the consultant and subconsultants must maintain all books, documents, papers, accounting records, and other information pertaining to costs incurred. Such materials must be available for inspection and audit by federal, State, and LPA authorized representatives; and copies thereof must be furnished, if requested.

Following final settlement of the contract accounts with the State or FHWA, such records and documents may be archived at the option of the LPA and must be retained for a three-year period after processing of the final voucher by FHWA.

Execute Contract and Issue Notice to Proceed to Consultant

The Contract Administrator sends the consultant a fully executed copy of the contract with an original signature and issues a notice to proceed. Funds may not be used to reimburse the agency for any work or costs incurred before the Authorization to Proceed is issued, or for consultant costs incurred prior to the execution of the consultant contract. All executed on-call contracts must have a begin and end date. All executed project-specific or multiphase contracts must have a begin date and should have an end date prior to the Project End Date. Work performed after the Project End Date is not eligible for reimbursement; see LAPM Chapter 3. LPA consultant selection and contract execution costs may be reimbursable.

For on-call contracts, a fully executed copy of the contract with original signatures will be sent to the consultant. Each subsequent task order (for individual project) will be accompanied with a copy of the signed task order and a Notice to Proceed, once it is negotiated and approved. Task order expiration dates must not exceed the Master On-call agreement end date.

Administer the Contract

Project work begins as specified in the contract after the notice to proceed is issued to the consultant. Thereafter, the LPA manages and administers the contract to ensure that a complete and acceptable product is received on time, within standards, and within budget and terms of the contract.

Contract administration activities help to ensure that contractual obligations are completed satisfactorily. Generally, these activities include:

- Monitoring project progress and compliance with contract requirements;
- Receiving, reviewing, and assessing reports, plans, and other required products/deliverables;
- Receiving and reviewing state prevailing wages (see Department of Industrial Relations websites below):
 - DIR FAQ website: http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html
 - DIR Wage Determination website: <http://www.dir.ca.gov/opri/DPreWageDetermination.htm>
- Reviewing invoices to ensure costs claimed are in accordance to the method of payment and contract cost proposal, approving payments;
- If new consultant personnel are added or substituted, labor rates must be verified prior to approving invoices.
- Record keeping and reporting;
- Controlling costs;
- Identifying changes to the scope of work and preparation of amendments (must ensure that any changes to the scope is within the constraints of the original RFP/RFQ;

- Completing the consultant performance evaluations (see [Exhibit 10-S: Consultant Performance Evaluation](#)).

Substitution of Consultant Personnel and Subconsultants

After contract execution the consultant should not substitute key personnel (project manager and others listed by name in the cost proposal) or subconsultants without prior written approval from the LPA. Refer to [LAPM Chapter 9: Civil Rights & Disadvantaged Business Enterprise](#) and 49 CFR 26 for DBE substitution requirements. To do so can result in the costs being ineligible for federal or state reimbursement. The consultant must request and justify the need for the substitution and obtain approval from the LPA prior to use of a different subconsultant on the contract.

The proposed substituted person must be as qualified as the original, and at the same or lower cost. For engineering types of consultant contracts, the consultant's project manager must be a registered engineer in the State of California.

Invoicing (or Progress Payments)

The frequency and format of the invoices/progress payments are to be determined by the contract. Program Supplement Agreements (see [LAPM Chapter 3: Project Authorization](#)) need to have been prepared prior to any payments being requested. Payments to the consultant are to be in arrears. In other words, the consultant must have actually incurred and paid the costs before invoicing the LPA.

For federal reimbursement of consultant costs on a project, the LPA must submit the following to the DLAE, for each consultant or consulting firm used on the project (failure to do so will result in the consultant's invoices for reimbursement being returned to the agency unprocessed):

- Copy of Executed Consultant contract;
- [Exhibit 10-O1: Consultant Proposal DBE Commitment](#)
- [Exhibit 10-O2: Consultant Contract DBE Commitment](#)
- Copy of issued task order and Exhibit 10-O2 for the task order for on-call contracts.

DLAE must confirm that the LPA has submitted copies of the Certification of Indirect Costs and Financial Management System form (for Prime and Subconsultants) to Caltrans IOAI and that LPA has submitted the A&E Consultant Contract form to Caltrans.

The LPA is to follow the procedures given in [LAPM Chapter 5: Invoicing](#), to obtain reimbursement of federal or state funds.

Contract Amendments

Contract amendments are required to modify the terms of the original contract for changes such as extra time, added work, or increased costs. Only work within the original advertised scope of services must be added by amendment to the contract. The addition of work outside the original advertised scope will make that work ineligible for federal or state reimbursement (see [Q&As](#)).

There is no prescribed format for contract amendments. They may take the form of letter-type agreements meeting the legal requirements of the LPA, clearly outlining the changes and

containing a mutually agreed-upon method of compensation. Such agreements must conform to the requirements of this manual with regard to payment.

A consultant contract may be amended at any time prior to the expiration date of the original contract. The most common amendment is to extend the ending date of the contract. All contract amendments must be fully executed before the ending date of the contract by formal amendment. Failure to amend a contract prior to the ending date will make the subsequent costs ineligible for federal and state reimbursement. Task orders are not considered an amendment and therefore not appropriate to extend the terms of the contract.

All contract amendments must be negotiated following the same procedures as the negotiation of the original contract and must be in writing and fully executed by the consultant and LPA before reimbursable work begins on the amendment. For any additional engineering and design related services outside of the scope of work established in the original solicitation, a contracting agency must either procure the series under a new solicitation, perform the work itself using agency staff, or use a different, existing contract under which the services would be within the scope of work. Overruns in the costs of the work must not automatically warrant an increase in the fixed fee portion of a cost-plus-fixed fee reimbursed contract. Permitted changes to the scope of work or duration may warrant consideration for adjustment of the fixed fee portion of cost-plus-fixed fee or lump sum reimbursed contracts. If an emergency exists of such magnitude that a delay cannot be tolerated, the LPA and the consultant may agree on an amendment initiating the work, so that reimbursable work may begin. The initiating amendment is then followed by a final amendment once the full scope of the emergency work is known and agreed to by both parties. In both cases, sufficient funding should be included in the amendments to pay for all work to be performed by the consultant. The final amendment must be executed as quickly as possible. Failure to fully comply with this section may result in the loss of LPA funding. [Section 10.1.3: A&E Consultant Audit and Review Process](#) of this chapter must apply to the entire contract and must be completed prior to execution of the contract amendment. For contracts greater than or equal to **\$1 Million**, submit the [Financial Document Review Request form](#) to IOAI for all amendments on consultant/subconsultant's name change, amending an ICR, or adding new subconsultant's ICR. ICRs that have not been accepted by IOAI are not eligible for federal or state reimbursement. For contracts with original amounts under **\$1 Million** but subsequently became greater than or equal to **\$1 Million** after amendment, IOAI Financial Document Review is not required. If there are any changes to the contract after submittal of the A&E Consultant Contract form, the LPA must submit an amended form to the [database](#) prior to the first invoice after the contract has been amended. Submission of the A&E Consultant Contract form is not required for non-A&E consultant contracts. All amendments must incorporate any current requirements of the federal regulations including the federal fiscal provisions and submit the A&E Consultant Contract form to the database prior to the first invoice after the contract has been amended (please use Firefox or Chrome if not supported by your browser).

Performance Evaluation

Pursuant to 23 CFR 172.9(d)(2) agencies are required to prepare an evaluation of the consultant when the project has been completed. The Contract Administrator evaluates the consultant's performance after the consultant's final report has been submitted, and the Contract Administrator has conducted a detailed evaluation with the consultant's project manager. See [Exhibit 10-S: Consultant Performance Evaluation](#) for a suggested format for use by the LPA.

Project Records

Federal-Aid Highway Program funding recipients and sub-recipients must maintain adequate and readily accessible project performance and financial records, supporting documents, and other records considered pertinent to the grant agreement and in compliance with federal laws and regulations (e.g., 23 USC 112; 40 USC 1101-1104, 23 CFR 172, 48 CFR 31, and 2 CFR 200). These records must be maintained for a minimum of three (3) years following issuance of the final voucher from FHWA (forwarded by Caltrans) and the closure of all other pending matters (2 CFR 200.333).

For audit purposes, project records and documentation must be kept for three (3) years after payment of the final federal or state voucher. Among the records to be retained are as follows (not an all-inclusive list):

- Copies of RFPs and RFQs, changes, addendums, etc. and bidder's list;
- Documentation of DBE participation (including [Exhibit 10-O1: Consultant Proposal DBE Commitment](#), [Exhibit 10-O2: Consultant Contract DBE Commitment](#)), [Exhibit 10-G: Individual A&E Task Order DBE Tracking Sheet](#), [Exhibit 17-F: Final Report – Utilization of DBE and First-Tier Subcontractors](#) or [Exhibit 17-F1: Final Report-Utilization of Disadvantaged Business Enterprise \(DBE\) for On-Call Contracts](#), and [Exhibit 17-O: DBE Certification Status Change](#)).
- Solicitation and advertisement records;
- Identification of selection committee members;
- Record of receiving proposals, statement of qualifications;
- Evaluation and ranking records such as original score sheets from all panel members, short list questions, and other documentation (see [Exhibit 10-B: Suggested Consultant Evaluation Sheet](#));
- Independent cost estimate (prepared in advance of requesting a cost proposal from the top-ranked consultant);
- Record of negotiations (to include a separate negotiation of profit in accordance with federal guidelines);
- Financial Review Letter and Cognizant Agency Letter, when applicable;
- CPA-audited ICR Audit Report or Approved State DOT Cognizant Indirect Rate Letter, if any;
- Consultant Certification of Costs and Financial Management (Certification of Indirect Costs and Financial Management System form) for contracts [at or above \\$1 Million](#);
- A&E Consultant Audit Request Letter and Checklist (Financial Document Review Request form) for contracts [at or above \\$1 Million](#) and all supporting documentation.
- Executed consultant contracts, cost proposals, and amendments (see [Exhibit 10-R: A&E Boilerplate Agreement Language](#));
- Contract oversight and progress meeting documents;
- Progress and final payments, and supporting documentation;
- Performance evaluation (see [Exhibit 10-S: Consultant Performance Evaluation](#));

- A&E Consultant Contract form (see [A&E Consultant Contract database](#));
- Accounting records documenting compliance with State and federal administrative requirements;
- Certifications and Conflict of Interest forms ([Exhibit 10-T: Conflict of Interest & Confidentiality Statement](#), all personnel involved in the procurement of the agreement should complete Exhibit 10-T, [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#), and [Exhibit 10-Q: Disclosure of Lobbying Activities](#), as appropriate). Exhibit 10-Q is included in the solicitation and must be completed if the consultant needs to disclose any lobbying activities.

Retention Clauses

At the option of the LPA, a retention clause may be included in the consultant contract. A retention clause in the consultant contract is recommended (see [Exhibit 10-R: A&E Boilerplate Agreement Language](#), Article VIII).

Review of Local Public Agency Actions

Federal-aid or state reimbursement is contingent on meeting the federal or state requirements and can be withdrawn, if these procedures are not followed and documented. The LPA files are to be maintained in a manner to facilitate future FHWA or Caltrans process reviews and audits. As specified in the Review and Approval of Contracts above, the Contract Administrator must review the proposed consultant contract before execution.

The A&E Consultant Contract form is to be completed prior to award, or after contract award but no later than the first invoice. A copy of this form must be retained in the LPA project files.

10.1.9 Miscellaneous Considerations

Agreements with Other Governmental Agencies

Intergovernmental or inter-entity agreements are encouraged if appropriate. If another governmental agency is requested to do work or provide services to an agency, an interagency agreement is needed (2 CFR 200 and California Government Codes 10340 and 11256).

Small Purchase Contracts

Contracts that are less than \$250,000 are considered small contracts in accordance with federal regulations. However, within the State of California, there is no recognized small purchase procedure and all A&E contracts are procured using qualifications based selection and not cost. For federal contracts that are less than \$250,000 and are not anticipated to exceed this amount, the agency must use either [Section 10.2: State-Only Funded A&E Contracts](#) or the federal guidance for contracts greater than \$250,000. If the contract is anticipated to exceed \$250,000, use one of the accepted procurement procedures listed in the previous sections. Small contracts using the simplified acquisition procedure (State-Only funded section) must not exceed \$250,000 or the additional costs are considered not reimbursable. The entire contract could also be considered ineligible by FHWA depending on circumstances. The scope of work, project phases, and contract requirements must not be broken down into smaller components to permit the use of small purchase procedure. DBE requirements apply for all federally-funded projects.

Noncompetitive Negotiated Contracts (Sole-Source)

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under sealed bids or competitive proposals (23 CFR 172.7(a)(3)).

FHWA considers these types of contracts as Sole Source contracts and should be used only in very limited circumstances. An Exhibit 12-F prepared by the LPA and approved by Caltrans is required before establishing these services (23 CFR 172.7(a)(3); also see [Exhibit 12-F: Cost-Effectiveness/Public Interest Finding/A&E Noncompetitive](#)).

Conditions under which noncompetitive negotiated contracts may be acceptable include:

- Only one organization is qualified to do the work;
- An emergency exists of such magnitude that cannot permit delay;
- Competition is determined to be inadequate after solicitation of a number of sources.

The LPA must:

- Follow its defined process for noncompetitive negotiation;
- Develop an adequate scope of work, evaluation factors, and cost estimate before solicitation;
- Conduct negotiations to ensure a fair and reasonable cost.

The LPA must carefully document details of the special conditions, obtain Caltrans approval on the Exhibit 12-F and retain all documents in the project files for future Caltrans' or FHWA's review.

Retaining a Consultant in a Management Support Role (CMSR)

An LPA may retain a qualified CMSR on its staff in professional capacities for federal-aid projects such as:

- A City Engineer (or equivalent) who manages the engineering unit for the city, providing oversight of a project, series of projects, managing or directing work of other consultants or contractors on behalf of the city.
- A County Engineer (or equivalent) who manages the engineering unit for the county such as duties described above.
- A Project Manager (or equivalent) who manages and oversees a project, series of projects, or the work of other consultants and contractors on behalf of the public agency.
- A Program Manager (or equivalent) who manages and oversees an element of a highway program, function, or service on behalf of the public agency.

However, typically a CMSR is not:

- A consultant engineer performing project-specific design, and/or construction contract administration and construction engineering for the public agency.
- A consultant providing support to administrative duties such as federal authorization process, labor compliance activities, and other management and administrative tasks.

The use of a CMSR should be limited to unique or very unusual situations. These situations require a thorough justification as to why the LPA cannot perform the management. Consultants used in management support roles must be selected using the same procedures as those for other consultants specified in this chapter. A CMSR funded by local or state funds must have approval from FHWA to be considered qualified to manage federal projects or consultants providing services on federal projects.

Eligibility for federal or state reimbursement for a CMSR requires the following:

- Compliance with the selection procedures specified in this chapter;
- Existence of a contract between the LPA and the consultant specifying the LPA engineering services to be performed;
- Written designation by the LPA of the responsibilities and authority of the consultant as an agency engineer;
- For a federal-aid project, completion of [Exhibit 10-T: Conflict of Interest & Confidentiality Statement](#) by all members (both consultants and employees) prior to participating in the Architect & Engineering (A&E) Selection Panel pertaining to the specific selection process and the firms being considered;
- Selection of consultants for A&E management positions must be by the use of qualification-based selection procedures on an open and competitive basis resulting in a contract with defined beginning and ending dates not to exceed five (5) years;
- For a federal-aid project, the LPA's CMSR must not:
 - Participate in, or exercise authority over the A&E selection process, if that consultant's firm is one of the proposing firms, or subconsultant to a proposing firm;
 - Participate in, or exercise authority over management of work performed by the consultant's firm, or to a consultant's firm of which the LPA consultant firm is a subconsultant. This would include, but not be limited to, managing or directing the work, approving changes in the schedule, scope, or deliverables; and approving invoices.
 - Apply for or receive reimbursement of federal-aid funds for the LPA's federal-aid project if either of the foregoing has occurred. However, reimbursement for the construction contract portion of the project will still be allowed provided all other federal-aid requirements have been met.
 - Where benefiting more than a single federal-aid project, allocability of consultant contract costs for services related to a management support role must be distributed consistent with the cost principles applicable to the contracting agency in 23 CFR 172.7(b)(5).

If engineering services for a project are within the scope of the services described in the retained consultant's contract, these services may be performed by the person or firm designated as an agency engineer. If the services are not within the scope, eligibility for federal reimbursement for these services require a new consultant contract to be developed using the selection procedures in this chapter. Retained consultants involved in the preparation of the RFP or RFQ must not be considered in the selection of consultants for the resulting project specific work.

When a CMSR is procured with federal-aid funds, the LPA (subgrantee) must fully comply with the following:

- Subparagraphs of 2 CFR 200.318 maintain a contract administration system and maintain a written code of standards. No employee, officer, or agent of the subgrantee must participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.
- Subparagraph of 23 CFR 172.7(b) requires that the LPA must receive approval from FHWA.
- Liability insurance should normally be required from the consultant (errors and omissions, etc.).

For federally-funded projects, LPAs that solicit to hire A&E consultant(s) in a management support role must obtain FHWA approval prior to contract execution.

In order for a contract for a CMSR to be federally eligible, the following are required prior to contract execution:

- The LPA must submit a request for approval via email, the Scope of Work (SOW) and Conflict of Interest (COI) Policy to the Division of Local Assistance-Headquarters (DLA-HQ) at aeoversight@dot.ca.gov, prior to solicitation.
- Once the LPA receives FHWA's written response, the LPA may need to revise the documents reflecting FHWA's opinions and can proceed with the RFQ.
- After consultant selection, the LPA must submit the completed [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#) to the DLA-HQ at aeoversight@dot.ca.gov. LPA will receive FHWA's approved [Exhibit 10-U](#) via email.

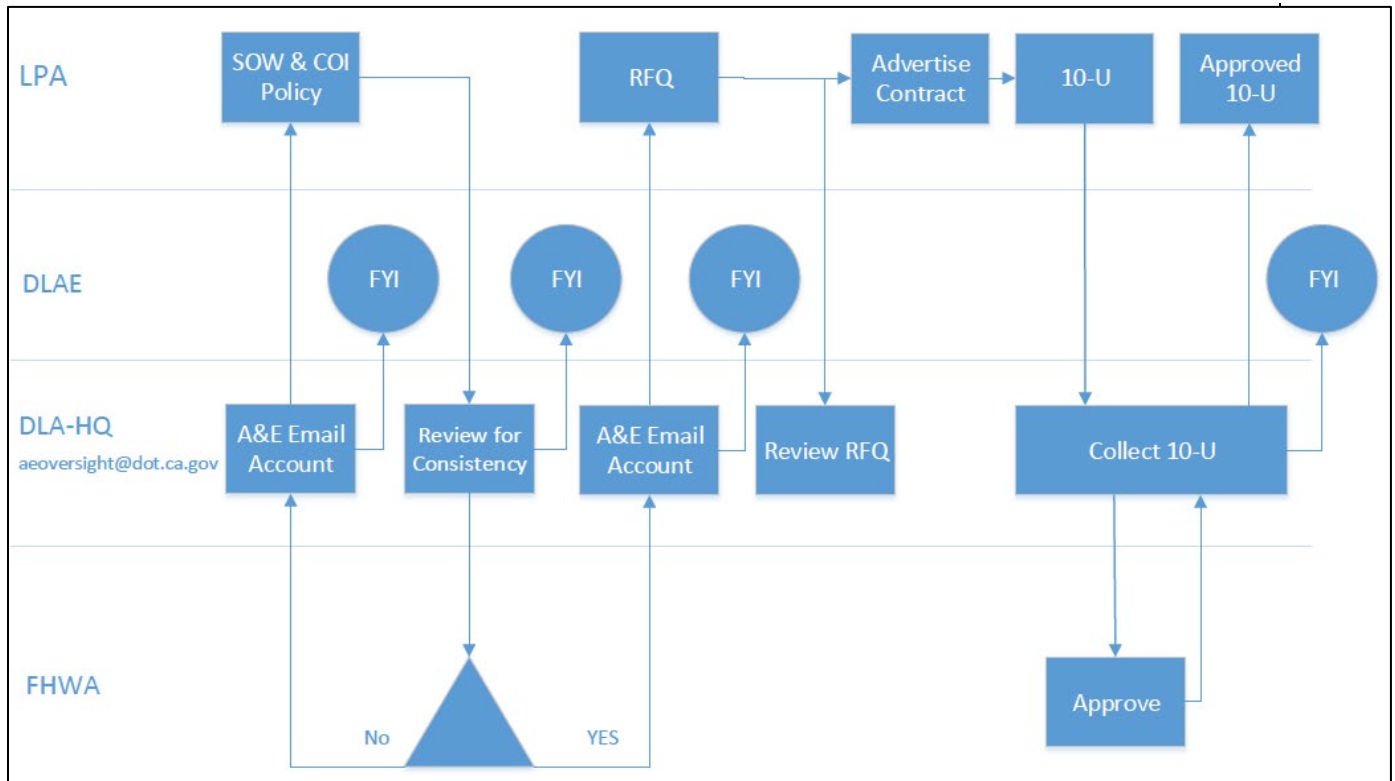


Figure 10-5: Consultant in a Management Support Role Flowchart

Construction Engineering Services

Under federal-aid regulations and state policy, the primary responsibility for general supervision of construction must remain with the LPA. The LPA must also ensure that the work is performed in accordance with the approved plans and specifications, by employing or retaining as a consultant a registered engineer for construction engineering services on the project.

All construction engineering activities performed by a consultant must be under the overall supervision of a full-time employee of the agency who is in responsible charge. These activities may include preparation of contract change orders, construction surveys, foundation investigations, measurement, and computation of quantities, testing of construction materials, checking of shop drawings, preparation of estimates, reports, and other inspection activities necessary to ensure that the construction is being performed in accordance with the plans and specifications. The construction engineering consultant’s contract defines the relative authorities and responsibilities of the full-time employee of the LPA in charge of the project and the consultant’s construction engineering staff.

If a technical inspection consultant is to provide professional assistance to the LPA, a formal consultant contract must be executed which follows this chapter’s requirements. The contract must provide for reviews at appropriate stages during performance of the work to determine if any changes or other actions are warranted. These reviews are to be made by the LPA.

10.1.10 Program Management

According to 23 CFR 172.5, LPAs are required to adopt written policies and procedures prescribed by Caltrans. As such, the LPA must adopt Caltrans Local Assistance Chapter 10: Consultant Selection, which contain the A&E policies and procedures.

To meet this requirement, LPAs are required to email and provide one of the following documents to the DLA Office of Guidance and Oversight (OGO) at aeoversight@dot.ca.gov:

1. A Board Resolution showing that the LPA is adopting Caltrans LAPM Chapter 10; OR
2. An official letter signed by the LPA's Public Works Director or equivalent manager addressed to the DLA OGO Office Chief, stating that the agency is adopting Caltrans LAPM Chapter 10

The DLA A&E [website](#) includes an example of the adoption [resolution](#) and [letter](#). These examples are for reference only; the appropriate language to be used is determined by the individual agency.

LPAs are responsible for providing all resources necessary for the procurement, management, and administration of A&E consultant contracts including subcontracts. Ensuring consultant costs billed are allowable in accordance with the Federal cost principles and consistent with the contract terms as well as the acceptability and progress of the consultant's work;

- Monitoring the consultant's work and compliance with the terms, conditions, and specifications of the contract;
- Preparing a consultant's performance evaluation when services are completed and using such performance data in future evaluation and ranking of consultant to provide similar services;
- Closing-out a contract;
- Retaining supporting programmatic and contract records, as specified in 2 CFR 200.333 and the requirements of this part;
- Determining the extent to which the consultant, which is responsible for the professional quality, technical accuracy, and coordination of services, may be reasonably liable for costs resulting from errors and omissions in the work furnished under its contract;
- Assessing administrative, contractual, or legal remedies in instances where consultants violate or breach contract terms and conditions, and providing for such sanctions and penalties as may be appropriate; and
- Resolving disputes in the procurement, management, and administration of engineering and design related consultant services.

10.1.11 References

- 2 CFR Part 200
<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1>
- 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
<https://www.govinfo.gov/app/details/CFR-2012-title2-vol1/CFR-2012-title2-vol1-part215/context>
- 23 U.S.C. Letting of Contracts
<http://www.fhwa.dot.gov/map21/docs/title23usc.pdf>
- 23 CFR 172
<https://www.ecfr.gov/current/title-23/chapter-I/subchapter-B/part-172>
- 40 U.S.C. 1104 Brooks Act
<https://www.govinfo.gov/app/details/USCODE-2011-title40/USCODE-2011-title40-subtitle-chap11/context>
- 41 CFR Public Contracts and Property Management
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title41/41tab_02.tpl
- 41 U.S.C. Public Contracts
<https://www.govinfo.gov/content/pkg/USCODE-2009-title41/html/USCODE-2009-title41.htm>
- 48 CFR, Chapter 1, Subpart 15.404
<https://www.acquisition.gov/far/part-15>
- 48 CFR, Chapter 1, Part 31
<https://www.acquisition.gov/far/part-31>
- 48 CFR, Chapter 1, Part 16 – Types of Contracts
<https://www.acquisition.gov/far/part-16>
- 48 CFR 27, Chapter 1, Subpart 27.3 – Patent Rights under Government Contracts
<https://www.acquisition.gov/far/part-27>
- 48 CFR, Chapter 1, Subpart 31.201-3 – Determining Reasonableness
<https://www.acquisition.gov/far/part-31>
- 48 CFR, Chapter 99 – Cost Accounting Standards, Part 9904
https://www.acquisition.gov/chapter_99
- 49 CFR 26 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl
- American Association of State Highway and Transportation Officials (AASHTO) Uniform Audit and Accounting Guide
<https://audit.transportation.org/>
- Caltrans Division of Procurement and Contracts Website
<http://www.dot.ca.gov/dpac/index.html>

California Labor Code, Section 1775

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB§ionNum=1775

Government Auditing Standards (GAS) issued by the United States Government Accountability Office

<http://www.gao.gov/yellowbook/overview>

Government Code Sections 4525 through 4529.5 and Sections 4529.10 through 4529.20

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=5.&title=1.&part=&chapter=10.&article=

Standard Environmental Reference (SER)

<http://www.dot.ca.gov/ser/>

10.2 STATE-ONLY FUNDED A&E CONTRACTS

10.2.1 General

LPAs are required to follow all applicable local and state regulations including those listed in LAPM Chapter 10 in accordance with their State Master Agreement. Although the requirements listed in this section are minimum requirements, the LPA must use good engineering judgment and best practices to document their processes and procedures when procuring A&E contracts utilizing qualifications based selections. LPAs using local funds to procure an A&E Consultant on a state-only funded project and will not seek state reimbursement for consultant cost may choose not to follow the selection and contracting procedures detailed in Section 10.2 of this chapter.

All consultants must comply with 48 CFR 31: Contract Cost Principles and Procedures. Also, consultants and LPAs must comply with 2 CFR 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, excluding sections 200.318-200.326 Procurement Standards (reference Federal Highway Administration December 4, 2014 Memorandum Action: 2 CFR 200 Implementation Guidance).

Agency state-only funded (SOF) agreements must contain the required federal fiscal provisions from 2 CFR 200 in all Division of Local Assistance funded agreements. [Exhibit 10-R: A&E Boilerplate Agreement Language](#) contains 2 CFR 200 requirements and may also be used in SOF agreements. Depending upon the scope of work, the required contract provisions may need to include the California State Prevailing Wages.

All proposed A&E contracts and supporting documents (including state-only funded) are subject to audit or review by Caltrans' Independent Office of Audits and Investigations (IOAI), other state audit organizations, or the federal government and required to follow [LAPM Section 10.1.3 A&E Consultant Audit and Review Process](#).

For consultant contracts, procured with local or state funds, to provide services for federal-aid projects, or to oversee or manage other consultants providing these services, the Consultant in Management Support Role process must be completed to be eligible for reimbursement. Refer to [Section 10.1.9 Miscellaneous Considerations: Retaining a Consultant as an Agency Engineer or in a Management Support Role](#).

DBE contract goals are not required for state-only funded contracts.

This guidance is for contracts utilizing state funds only. If any federal funds are added or reimbursed, the federal process must be followed.

Non-A&E consultant contracts reference [Section 10.3: Non-A&E Contracts](#).

Reference: California Government Code Title 1, Division 5, Chapter 10, Contracts with Private Architects, Engineering, Land Surveying, and Construction Project Management Firms §4525-4529.5.

10.2.2 Definition of A&E

Architectural, landscape architectural, engineering, environmental, and land surveying services includes those professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

Construction project management means those services provided by a licensed architect, registered engineer, or licensed general contractor. Any individual or firm proposing to provide construction project management services must provide evidence that the individual or firm and its personnel carrying out onsite responsibilities have expertise and experience in construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project scheduling, cost-benefit analysis, claims review and negotiation, and general management and administration of a construction project.

Environmental services mean those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws.

Reference: California Government Code §4527

10.2.3 Minimum Audit Requirements

A. Written Procedures

Local agencies shall follow the minimum requirements listed below in addition to any local laws and regulations.

Reference: California Government Code §4526

B. Conflict of Interest

The LPA must develop and maintain a written code of conduct governing the performance of its employees engaged in the award and administration of state-funded contracts, including the prevention of conflicts of interest.

References:

California Government Code §4526

California Government Code §1090

California Government Code §4529.12

C. Records

Local agencies shall keep adequate records of all contracts including the procurement, project management, accounting, and financial administration.

References:

California Government Code §4529.14

California Government Code §4006

D. Full & Open Competition

All A&E contracts shall be procured through a qualifications-based selection utilizing open and fair competition. Evaluate at least three consultants using published evaluation criteria and rank these firms in order of preference. If less than three consultants are evaluated, provide justification for agency file.

References:

California Government Code §4526

California Government Code §4527

California Government Code §4529.12

E. Selection Basis

Selection of a firm shall be based on qualifications and the order of ranked preference.

References:

California Government Code §4526
California Government Code §4527

F. Publication

Solicitations for A&E contracts shall be in a manner that is open and competitive.

Reference: California Government Code §4527

G. Solicitation

The solicitations shall include published evaluation criteria to rank in order of preference. Clearly define expectations in the solicitation in order to evaluate firms.

Reference: California Government Code §4527

H. Cost Analysis

An independent cost comparison to the consultant's cost proposal shall be done in order to ensure the contract is negotiated at a fair and reasonable price.

Reference: California Government Code §4528

I. Negotiations

Negotiations must be documented to verify a fair and reasonable contract has been executed using public funds.

Reference: California Government Code §4528

J. Audit and Review Process

A&E contracts procured by public agencies shall be subject to standard accounting practices and may require financial and performance audits. All agencies shall follow the Audit and Review Process as stated in [Section 10.1.3: A&E Consultant Audit and Review Process](#).

[Financial Document Review Request form](#).

References:

California Government Code §4529.14
2 CFR 200

K. A&E Consultant Contract Form

The A&E Consultant Contract form must be completed and submitted in the database at <https://dla.dot.ca.gov/fmi/webd/AE%20Consultant%20Contract%20Form> (please use Firefox or Chrome if not supported by your browser) prior to contract award, or after contract award but no later than the first invoice for all new state-only funded A&E consultant contracts.

If there are any changes requiring an amendment to the contract after submittal of the A&E Consultant Contract form, the LPA must submit an updated form to the [database](#) prior to the first invoice after the contract has been amended. Submission of the A&E Consultant Contract form is not required for non-A&E consultant contracts.

Reference: LAPM Ch.10.2

CA Government Code References

California GOV §1090

(a) Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.

(b) An individual shall not aid or abet a Member of the Legislature or a state, county, district, judicial district, or city officer or employee in violating subdivision (a).

(c) As used in this article, "district" means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

California GOV §4006

Plans, specifications, work authorizations describing work to be performed, and all other information referred to in this chapter are open to inspection and examination as a public record.

California GOV §4525

For purposes of this chapter, the following terms have the following meaning:

(a) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.

(b) "State agency head" means the secretary, administrator, or head of a department, agency, or bureau of the State of California authorized to contract for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services.

(c) "Local agency head" means the secretary, administrator, or head of a department, agency, or bureau of any city, county, city and county, whether general law or chartered, or any district which is authorized to contract for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services.

(d) "Architectural, landscape architectural, engineering, environmental, and land surveying services" includes those professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

(e) "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor which meet the requirements of Section 4529.5 for management and supervision of work performed on state construction projects.

(f) "Environmental services" means those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws. "Environmental services" also includes the processing and awarding of claims pursuant to Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

California GOV §4526

Notwithstanding any other provision of law, selection by a state or local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. In order to implement this method of selection, state agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall adopt by regulation, and local agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services may adopt by ordinance, procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agencies. Furthermore, these procedures shall assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Section 14837.

In addition, these procedures shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this section which would subject those employees to the prohibition of Section 87100.

California GOV §4527

In the procurement of architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services, the state agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data.

(a) When the selection is by a state agency head, statewide announcement of all projects requiring architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services shall be made by the agency head through publications of the respective professional societies. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him or her, no less than three of the firms deemed to be the most highly qualified to provide the services required.

(b) When the selection is by a local agency head, the agency head may undertake the procedures described in subdivision (a). In addition, these procedures shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when these employees have a relationship with a person or business entity seeking a contract under this section.

California GOV §4528

(a) When the selection is by a state agency head the following procedures shall apply:

(1) The state agency head shall negotiate a contract with the best qualified firm for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services at compensation which the state agency head determines is fair and reasonable to the State of California or the political subdivision involved.

(2) Should the state agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the agency head determines to be fair and reasonable to the State of California or the political subdivision involved, negotiations with that firm shall be formally terminated. The state agency head shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the state agency head shall terminate negotiations. The state agency head shall then undertake negotiations with the third most qualified firm.

(3) Should the state agency head be unable to negotiate a satisfactory contract with any of the selected firms, the state agency head shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this chapter until an agreement is reached.

(b) When the selection is by a local agency head, the local agency head may undertake the procedures described in subdivision (a).

California GOV §4529

This chapter shall not apply where the state or local agency head determines that the services needed are more of a technical nature and involve little professional judgment and that requiring bids would be in the public interest.

California GOV §4529.12

All architectural and engineering services shall be procured pursuant to a fair, competitive selection process which prohibits governmental agency employees from participating in the selection process when they have a financial or business relationship with any private entity seeking the contract, and the procedure shall require compliance with all laws regarding political contributions, conflicts of interest or unlawful activities.

California GOV §4529.14

Architectural and engineering services contracts procured by public agencies shall be subject to standard accounting practices and may require financial and performance audits as necessary to ensure contract services are delivered within the agreed schedule and budget.

California GOV §4529.20

This act seeks to comprehensively regulate the matters which are contained within its provisions. These are matters of statewide concern and when enacted are intended to apply to charter cities as well as all other governmental entities.

Federal Highway Administration Memorandum 2 CFR Part 200 Implementation Guidance 12/4/2014

Attachment A: FHWA 2 CFR Part 200 Uniform Guidance – Questions and Answers

Question 21: "Will the FHWA/USDOT provide a waiver of the requirements in 2 CFR 200.317 for subrecipients to comply with State procurement requirements or other policies and procedures approved by the State (200.317)?"

Answer: Yes. The USDOT requested and received an OMB waiver of the requirements in 2 CFR 200.317 concerning procurement by subrecipients. This waiver provides an exception to the requirement for all subrecipients of a state to follow the procurement requirements in Sections 200.318 through 200.326. The waiver will allow States and subrecipients to continue to use state-approved procurement procedures as they did under part 18 prior to the adoption of the Uniform Guidance.

10.3 NON-A&E CONTRACTS

Scope

This section covers the procurement requirements for the services that are not included in [Section 10.1 Federally-Funded A&E Contracts](#) and [Section 10.2 State-Only Funded A&E Contracts](#). This guidance is for contracts utilizing federal-aid funds and state funds. Federal regulations refer to state and local regulations for non-A&E type contracts. Although LPAs are required to follow 2 CFR 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards for all contracts, the Procurement Standards section 200.318-200.326 is exempt. The guidance in this section follows the established regulations in the California Public Contract Code. Depending upon the scope of work, the required contract provisions may need to include the California State Prevailing Wages.

LPA must designate one person within the LPA as a contract manager.
(PCC 10348.5)

LPAs using local funds to procure non-A&E Consultants on a federal-aid funded or state-only funded project and will not seek federal or state reimbursement for consultant cost may choose not to follow the selection and contracting procedures detailed in Section 10.3 of this chapter.

Determining Non-A&E

After identifying that there is a need for consulting services, the LPA must determine that the services needed are more of a technical nature and involve minimal professional judgement and that requiring a cost proposal would be in the public's best interest. These type of consultant services that are not directly related to a highway construction project or that are not included in the definition of engineering and design-related services are considered non-A&E. The services must not be included in Section 10.2.2 Definition of A&E.

The determining factor is whether the services being procured are related to a specific construction project and whether the services require work to be performed, provided by, or under the direction of a registered engineer or architect.

Example of Determining Non-A&E

Material testing has been requested to ensure quality assurance on a construction project. The service includes only performing the material test and providing material test data. Although the service is related to a construction project, the overall service did not provide an evaluation or a discipline report. In this example, the LPA can determine that the service provided is more of a technical nature and is therefore a non-A&E service.

The following is a list of the more common non-A&E services:

- Right-of-Way Appraisal
- Right-of Way acquisition activities
- Conducting public outreach during environmental clearance or construction
- Active Transportation Program educational and outreach activities
- Intelligent Transportation System (ITS)
- Non-Infrastructure

- Local Roadway Safety Plan (LRSP) associated with Highway Safety Improvement Program (HSIP)-funded projects

Intelligent Transportation System (ITS) Projects

Intelligent Transportation System (ITS) means electronic, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system. ITS projects are those that in whole or in part, fund the acquisition of technologies or systems of technologies that provide significant contributions to the provision of one or more ITS user services as defined in the National ITS Architecture.

The federal-aid procurement regulations identify three possible contract procurement procedures for ITS projects including engineering and design related services (A&E), construction, and non-engineering/non-architectural (non-A&E).

If ITS projects include physical installation of field devices and/or communications infrastructure, such as new traffic signals, new controller cabinets, changeable message signs, radio and computers, vehicle detectors, and conduits for cabling in the roadway, then that work and required equipment usually meets the definition of construction. The construction contract must be procured based on competitive bidding. If the ITS project involves software development, system integration, hiring engineers, and specialists for ITS design and installation support, inspection, design documentation, training and deployment, it may be considered an engineering and design services contract and the contract must be procured as an A&E consultant contract. If the scope of work is unclear as to whether it is an A&E type of work, contact aeoversight@dot.ca.gov for assistance.

However, if an ITS project does not meet either the definition of construction or engineering and design services, then the contract may be considered to be a non-A&E consultant contract.

Examples of non-A&E consultant contracts are:

- The procurement of hardware and software associated with incident management system;
- Software systems for arterial and freeway management systems;
- Operating the 511 traveler information service;
- Nonprofessional services for system support such as independent validation and verification, testing and specification development;

For more information regarding Intelligent Transportation Systems (ITS) Program procurement requirements, refer to [LAPG Chapter 13: Intelligent Transportation Systems](#).

Non-Infrastructure Projects

Non-infrastructure (NI) projects are those transportation-related projects that do not involve either engineering design, Right-of-Way acquisition (for additional guidance refer to [LAPM Chapter 13](#)), or the eventual physical construction of transportation facilities.

Procurement of non-A&E consultant contracts associated with non-infrastructure projects must follow Non-A&E procurement procedures described in this chapter. For more information on NI projects, refer to [LAPM Chapter 3: Project Authorization](#).

Governing Regulations and Codes for Non-A&E

When procuring non-A&E services with federal-aid funds, LPAs must comply with 2 CFR 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, excluding sections 200.318-200.326 Procurement Standards (reference FHWA December 4, 2014 Memorandum Action: 2 CFR 200 Implementation Guidance, Attachment A). LPAs must follow the same policies and procedures that the State uses for procurement with its non-Federal funds. When procuring non-A&E services with federal-aid and state-only funds, the governing procurement code is Public Contract Code 10335-10381.

Procurement of Non-A&E Consultant Contracts

All non-A&E procurements contracts must be conducted in a manner providing full and open competition consistent with federal and state standards. LPA must meet the code of conduct governing the performance of its employees engaged in the award and administration of federal-aid and state-funded contracts, including the preventions of conflict of interest in PCC 10410.

The following are the fundamental rules when procuring a non-A&E consultant contract.

1. The request for proposal (RFP) must not limit the competition directly or indirectly to any one consultant. The RFP must be publicized, and all evaluation factors and their relative importance identified (PCC 10339).
2. Splitting a single transaction into a series of transactions for the purpose of evading the procurement requirements is not allowed (PCC 10329).
3. LPA must secure at least three competitive proposals for each contract. (PCC 10340) When receiving less than three proposals, refer to the [Cost-Effective/Public Interest Finding](#) in this section as an alternative to re-advertisement.
4. No proposals must be considered which have not been received at the place, and prior to the closing time as stated in the RFP (PCC 10344(a)).
5. LPA must have a written procedure for evaluating proposals (PCC 10344).

RFP Basic Requirements

There are two general types of consulting service contract solicitations:

- A. Request for Proposal using Cost only
- B. Request for Proposal using Cost and Qualifications

The LPA must include the following in the request for proposal:

- A. A clear, precise description of the work to be performed or services to be provided.
- B. Description of the format that proposals must follow and the elements they must contain.
- C. The standards the agency will use in evaluating proposals. This includes qualifications and certifications if applicable.
- D. The date the proposals are due.
- E. The procurement schedule that the LPA will follow in reviewing and evaluating the proposals.

(PCC 10344)

Additional Requirements and Evaluation CriteriaAdditional Requirements for Request for Proposal using Cost only

- A. LPA must require consultants to submit their proposals and cost in a separate, sealed envelope.
- B. LPA must determine those that meet the format requirements and the standards specified in the request for proposal.
- C. The sealed envelopes containing the price and cost information for those proposals that meet the format requirements and standards must then be publicly opened and read.
- D. Contract must be awarded to the lowest responsible consultant meeting the standards.

(PCC 10344(b))

Additional Requirements for Request for Proposal using Cost and Qualifications

- A. LPA must include in the proposal the description of the evaluation and scoring method. Substantial weight in relationship to all other criteria utilized must be given to the cost amount proposed by the consultant.
- B. LPA must determine those that meet the format requirements specified in the RFP.
- C. LPA evaluation committee must evaluate and score the proposals using the methods specified in the RFP. All evaluation and scoring sheets must be available for public inspection after the committee scoring process. Evaluation committee should comply to the prevention of conflict of interest in PCC 10410.
- D. The non-A&E contract must be awarded to the consultant whose proposal is given the highest score by the evaluation committee.

(PCC 10344(c))

When using RFP (Cost and Qualifications), the criteria used to evaluate the consultant's proposals must have a logical foundation within the scope of work or within other technical requirements contained in the RFP. Each criterion must have a weight or level of importance, and it is recommended that total possible score for the evaluation criteria be one hundred (100) points. The proposed cost should be at least thirty percent (30%) of total points in evaluation criteria.

An example RFP for non-A&E is provided on the Local Assistance website at <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/ae/files/rfp-example-non-ae.docx> and may be modified.

Submission of the A&E Consultant Contract form is not required for non-A&E consultant contracts.

Consultant's Proposal

The consultant's proposal should include the following information:

- Consultant Project Manager – qualifications, roles, and responsibilities.
- Methodology - description of work and overall approach, specific techniques that will be used and specific administrative and operations expertise to be used.

- Workplan and Work Schedule - the technical proposal should include activities and tasks, and their delivery schedule.
- Personnel - List of personnel who will be working on the project, and their resumes.
- Facilities and resources (If applicable) - Explanation of where the services will be provided and what type of equipment is needed to perform services.
- Sub-contracts - Identify all sub-contracts that are to be used, description of each, and the work by each sub-consultant/sub-contractor. No work must be subcontracted unless listed in the technical proposal. Sub-consultant resumes should be provided.
- References - The technical proposal should provide at least three (3) clients for whom the proposer has performed work of similar nature to the request.

Cost Proposal Worksheet

The RFP should provide a standard format for cost proposal that all proposers must include in their proposal. The cost proposal format can be broken down by specific tasks, showing hourly labor rates, level of effort and material, and/or by milestones and deliverables.

LPA is not required to award a contract if it is determined that the contract price is not reasonable (PCC 10340(c)).

DBE Consideration

DBE consideration is required on all federal-aid funded contracts including non-A&E.

Administrative Requirements

Advertisement for RFPs may be through the LPA website, local publications, and national publications. Minimum solicitation time is 14 calendar days. The solicitation should inform potential qualified consultants that questions must be submitted in writing to the Agency Contract Manager/Administrator by a specified date and time. All pertinent technical information and answers to consultant's questions must be provided to all potential consultants. Written responses to all questions will be collectively compiled and provided as an addendum.

A proposal may be considered nonresponsive and rejected without evaluation if all required information is not provided. Proposals without information regarding, or not meeting, the required DBE utilization goal or without a Good Faith Effort documentation (see [Exhibit 15-H: Proposer/Contractor Good Faith Efforts](#)), late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and must be rejected. Submittal of additional information after the due date must not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

No consultant who has been awarded a consulting service contract may be awarded a subsequent contract for the services or goods which are required as an end product of the consulting service contract, unless the subcontract is no more than 10 percent of the total monetary value of the consulting services contract. Excludes A&E contracts.

(PCC 10365.5)

Contracts may be modified or amended only if the contracts so provide. Amendments must be requested and executed prior to the termination date of the most recently approved original or amended contract. All records of contract activities must be kept for three years after federal

final voucher E-76 or state final voucher for State-Only funds. Costs are reimbursable after state allocation by the California Transportation Commission (CTC) and/or the issuance of the federal E-76. The per diem rate must not exceed the state rate. Contract Managers are responsible for monitoring expenditures on all contracts and verifying categories of work that require prevailing wage. A person in Responsible Charge of contract management is required for all federally-funded projects.

Oral Presentations Optional

When oral presentations are required by the LPA, the evaluation criteria must include factors/sub-factors and weights used to score the proposers performance at the oral presentation. The evaluation committee will only be able to score each proposer based upon these criteria. The Contract Manager/Administrator should develop a set of questions related to the scope of work or the project to be asked during the evaluation committee question and answer (Q & A) section of the oral presentations. All proposers are asked the same questions for consistency.

The committee must also evaluate reference checks and other information gathered independently. Reference checks must be completed, and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

Cost-Effective / Public Interest Finding

A minimum of three proposals must be evaluated to establish effective competition. Any agency that has received less than three proposals on a contract must document the names and addresses of the firms or individuals it solicited for proposals. Prepare an explanation as to why less than three proposals were received. When only two proposals are received, a justification must be documented to proceed with the procurement. When only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) ([Exhibit 12-F: Cost-Effective/Public Interest Finding/A&E Noncompetitive](#)) must be documented. In either case, the re-advertisement of the RFP should be considered as an option. Retain document as supporting documentation in the contract file.

(PCC 10340(c))

Protest / Appeals / Reinstatement Procedures

Both state and federal regulations require well-defined protest/reinstatement procedures. It is essential that the procedures include a reasonable opportunity for the prospective consultant to present his/her case. The appeals procedures strengthen the process by which the contracting agency reaches its ultimate goal and helps defend its action against a claim of lack of due process. A termination clause and a provision for settlement of contract disputes are required. Protest procedures and dispute resolution processes should be in accordance with PCC 10345.

10.4 A&E OVERSIGHT PROGRAM AND PROCESS REVIEW

General

The A&E Oversight Branch is responsible for the oversight of consultant contracts procured by LPAs complying with federal regulations 23 CFR 172 and 23 U.S.C.112, and state regulations California Government Code 4525.

For locally-administered federal-aid highway projects, A&E consultant contract oversight reviews will be performed by Caltrans' Local Assistance A&E Oversight Engineers (A&EOEs). DLAE staff should participate in the reviews.

Type of Reviews

The purpose of A&E consultant contract oversight reviews is to verify LPA compliance with federal and state consultant contract administration requirements. A risk-based approach has been identified by the A&E branch to aid LPAs with compliance that includes requiring agencies to complete and submit the A&E Consultant Contract form prior to contract award, or after contract award but no later than the first invoice. The objective is to create a database documenting all consultant contracts and to perform process reviews on a sample of contracts for the annual performance measures report.

Although the risk-based approach is the submittal of the A&E Consultant Contract form via the database, a process review may be conducted on projects for reporting purposes and to determine accuracy of the A&E Consultant Contract form information.

A&E Consultant Contract Form Review

The purpose of the A&E Consultant Contract form is to provide oversight and guidance to an LPA regarding consultant contract administration on a federal or state-funded project prior to the award of the contract. The database includes items considered critical for compliance with federal and state regulations.

Subsequent process reviews may be performed on selected state and/or federal projects requiring a greater degree of oversight if deemed necessary for agencies with a noncompliance history.

The following factors may be used when selecting projects for subsequent review:

- LPAs with identified deficiencies during an Incurred Cost Audit
- Projects administered by agencies with previous sanctions/findings
- Lack of experienced/trained LPA personnel
- Request by LPA or DLAE for additional assistance

During subsequent process reviews, the A&EOE will meet with the LPA's consultant contract administration team and discuss project record documentation requirements using the A&E Consultant Contract form. The timing of these types of reviews is targeted for pre-advertisement, pre-negotiations, and pre-award of the consultant contract. This will allow for any changes to take place prior to execution or termination of negotiations for re-advertising. The A&EOE will also explain new policies or procedures, discuss available training, and highlight common problem areas and the means to avoid them.

Review Findings and Deficiencies

Caltrans will not be involved in most project-level reviews and approval activities. Instead, the Process Review as outlined in this section is Caltrans' primary method of ensuring that federal and state requirements are met. During a Process Review of an LPA's project files, errors and/or deficiencies that may violate federal or state law or regulation could be found. If that happens, federal and/or state funds may be withdrawn from a project depending on the severity and circumstance of the deficiency, as well as the possibility of jeopardizing future federal and/or state funding opportunities for the agency's other projects.

It is important to note that the formal process review is not the only method of discovering project deficiencies. Errors or deficiencies are discovered occasionally as part of the normal routine of processing project submittals by DLAEs or DLA Area Engineers.

Review findings from any subsequent reviews will be forwarded to the LPA and the DLAE within five business days. Deficiencies identified during a review may require development of a corrective action plan by the LPA in consultation with the District within 30 calendar days of receipt of the deficiency notification, unless the agency disagrees with the deficiencies identified and appeals the decision as discussed below.

A list of common A&E consultant procurement-related deficiencies is found at the A&E [website](#). These examples, not all-inclusive, should assist LPAs with knowing common deficiencies found in the past and the possible ramifications for those errors and deficiencies. The key to avoiding possible sanctions is to follow the procedures outlined in this chapter and other appropriate policies and guidelines, and if you have any questions, to consult your DLAE.

Corrective action plans, if required, will identify actions the LPA will take to address each deficiency noted. Corrective actions may include the following: Re-advertising, modifications of LPA policies and procedures, and participation in training to address systemic related deficiencies. Project-specific issues may require additional measures to remedy deficiencies to ensure compliance with federal and state requirements and ensure reimbursement eligibility. Corrective action plans must also include timelines for each action to be implemented. Failure to provide and implement corrective actions may result in sanctions or federal/state ineligibility notices against the project or LPA and could prevent federal or state participation in all or a portion of the project.

In the event the LPA disagrees with the deficiencies identified, the LPA will have 30 calendar days from receipt of the deficiency notification to submit their written request for appeal in accordance with the DLA's [Local Agency Dispute Resolution Process](#). If the appeal is denied, the LPA will have 30 calendar days from receipt of the decision to submit their corrective action plan.

The Dispute Resolution Process provides a means for the LPA to appeal a sanction that they feel has been imposed upon them unfairly or they feel the penalty is too harsh for the error or deficiency. This appeal process is not limited to just the appeal of sanctions; it can be used by LPAs when they disagree with the decision, they receive from a district office.

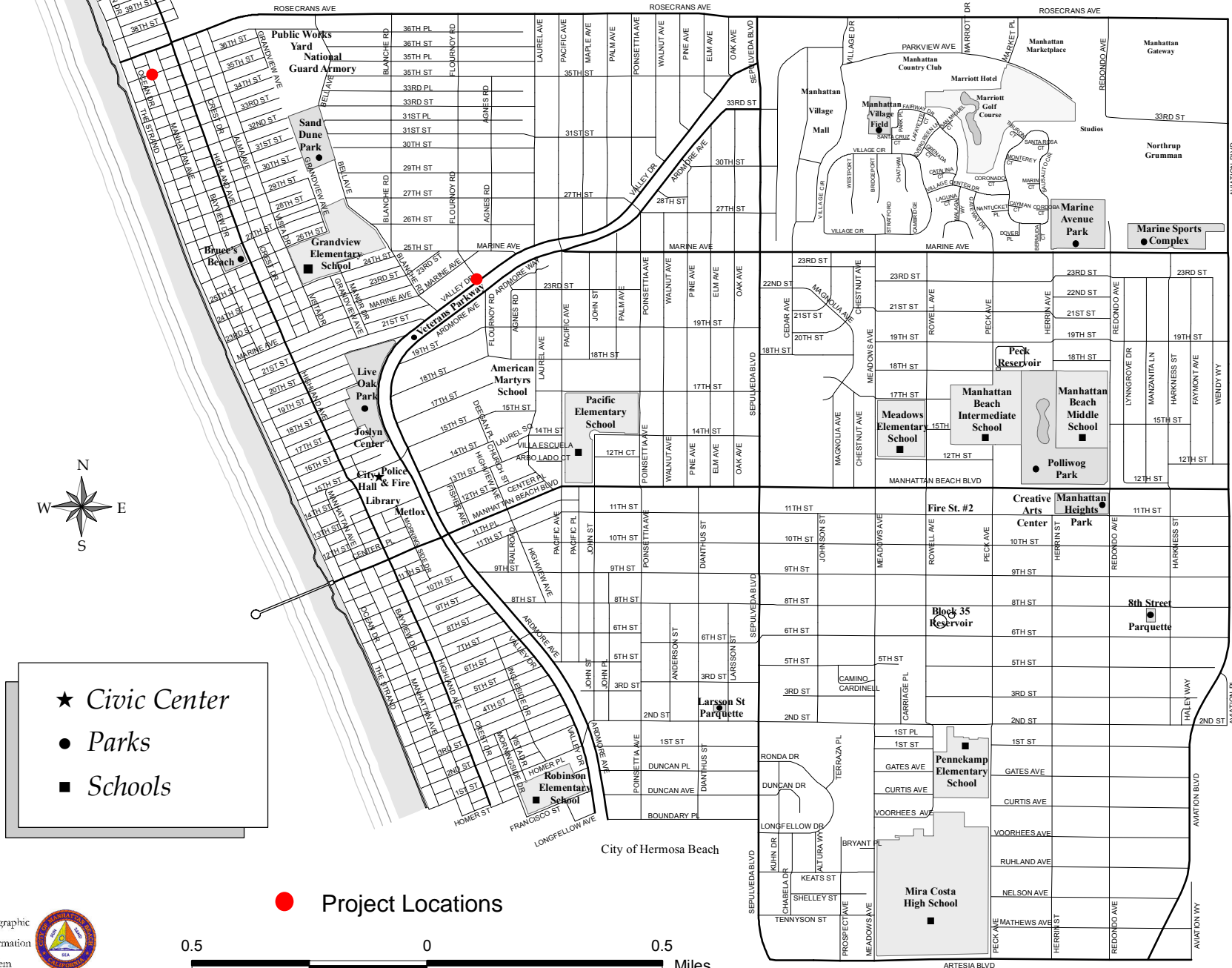
10.5 SANCTIONS

Depending on the severity and circumstances of the deficiencies which may require sanctioning by Caltrans, the DLA or DLAE may impose one of the following sanctions:

- Freeze on all future programming of federal or state funds until corrective action is implemented
- Freeze progress payments for a federal-aid project until the project's deficiency is corrected
- Percentage of federal or state funds for a project withdrawn
- All federal or state funds withdrawn from a project

The DLAE will be responsible for notifying the LPA of sanctions imposed. Whether or not sanctions are imposed against an LPA, the LPA will be expected to develop a corrective action plan and implement it to correct the deficiencies. LPAs will be given adequate time to develop and implement their action plan. Failure to correct the deficiencies in a timely manner will be grounds for imposing additional sanctions

City of Manhattan Beach HSIP Funding Application Pedestrian Crosswalk Improvement Project





CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Erick Lee, Public Works Director
Sean Roberts, Field Operations Manager
Nicky Petroff, Senior Management Analyst

SUBJECT:

Consideration of a Resolution Approving a Three-Year Maintenance Services Agreement with Duthie Power Services for On-Call Auxiliary Generator Services in an Amount Not-to-Exceed \$300,000 (Public Works Director Lee).

ADOPT RESOLUTION NO. 23-0164

RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt Resolution No. 23-0164 approving a Three-Year Maintenance Services Agreement with Duthie Power Services for On-Call Auxiliary Generator Services in an Amount Not-to-Exceed \$300,000 and;
2. Authorize the City Manager and/or his or her designee to extend the agreements for up to two additional one-year terms.

FISCAL IMPLICATIONS:

Staff anticipates expenditures for services should not surpass \$100,000 annually for the initial three-year term, with a total not to exceed an amount of \$300,000. Additionally, the agreement allows for two optional one-year extensions applicable to the term only.

The City Council's approval of the agreements is required as the amount associated with each agreement exceeds the City Manager's awarding authority. Sufficient funding for the agreement is available in the Department's budget for the current fiscal year within the Water, Wastewater, and Building & Grounds Maintenance Funds. Future years will be budgeted accordingly.

BACKGROUND:

The City routinely contracts for auxiliary generator maintenance services. Throughout the year, the City provides ongoing preventative and responsive maintenance services. Additional unplanned and unanticipated maintenance needs require immediate response to ensure the safety and protection of life and property and to ensure the continuity of City operations. This agreement will ensure the continuation of the necessary services in a timely and costly manner.

DISCUSSION:

On June 20, 2023, staff solicited Auxiliary Generator Maintenance Services Request for Proposals (RFP) #1313-23 through OpenGov, a public bid notification system. Four proposal responses were received on July 11, 2023. The scope of work consists of on-call scheduled and emergency maintenance services.

The evaluation criteria for this service contract and vendor selection are based on several factors, including but not limited to:

- Contractor’s Qualifications and Experience in Providing Services
- Availability of Trained Staff in the Los Angeles Area
- References
- The costs, quality, service, fitness, the bidder's ability to deliver, availability, prior experience, and other factors relating to the City's particular needs

Proposal Results:

1. Duthie Power Services Service	Lowest Responsible Bidder
2. Collicutt Energy	Lowest Proposal, Disqualified
3. Lorbel Inc.	Second Lowest Overall Score
4. Odyssey Power Corporation	Highest Costs, Lowest Overall Score

Although Collicutt Energy submitted the lowest proposal, this vendor would not agree to the City’s standard contract terms regarding indemnification and was ultimately disqualified from this process. Based on the criteria above Duthie Power Services demonstrated a clear understanding of the scope of work for each required service and was selected as the lowest responsible bidder. Staff recommends the approval of a three-year term with the possibility of two additional one-year extensions.

PUBLIC OUTREACH:

This bid was advertised on the City’s website and OpenGov, a public bid notification board.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

LEGAL REVIEW:

The agreements have been reviewed by the City Attorney and are approved as to form.

ATTACHMENTS:

1. Resolution No. 23-0164
2. Agreement - Duthie Power Services

RESOLUTION NO. 23-0164

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING AN AGREEMENT BETWEEN THE CITY OF MANHATTAN BEACH AND DUTHIE POWER SERVICES FOR ON-CALL AUXILIARY GENERATOR MAINTENANCE SERVICES

THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council hereby approves the Agreement between the City of Manhattan Beach and Duthie Power Services dated the same date this agreement is approved by the City Council for on-call auxiliary generator maintenance services in an amount not to exceed of \$300,000.

SECTION 2. The Council hereby directs the City Manager to execute the Agreement on behalf of the City.

SECTION 3. The City Clerk shall certify to the passage and adoption of this resolution.

ADOPTED on December 5, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

**CITY OF MANHATTAN BEACH
MAINTENANCE SERVICES AGREEMENT**

THIS MAINTENANCE SERVICES AGREEMENT (“Agreement”) is between the CITY OF MANHATTAN BEACH, a California municipal corporation (“City”) and Duthie Electric Service Corporation dba Duthie Power Services, a California Corporation (“Contractor”). The date the City Council approves this Agreement shall be the date this Agreement is effective (“Effective Date”). Contractor’s DIR registration number is 1000027141.

City and Contractor are sometimes referred to herein as the “Parties”, and individually as a “Party”.

In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Scope of Services. Contractor shall perform the work and provide all labor, materials, equipment and services in a good and workmanlike manner for the project identified as auxiliary generator maintenance services (“Project”), as described in this Agreement and the Scope of Work attached hereto as Exhibit A and incorporated herein by this reference. In the event of any conflict between the terms of this Agreement and the incorporated documents, the terms of this Agreement shall control.

2. Extra Work. Extra work, when ordered in writing by the Public Works Director (“Director”) and accepted by Contractor, shall be paid for in accordance with the terms of the written work order. Payment for extra work will be made at the unit price or lump sum previously agreed upon in writing between Contractor and the Director. All extra work shall be adjusted daily upon the report sheet furnished by Contractor, prepared by the Director, and signed by both parties; and the daily report shall be considered thereafter the true records of extra work done.

3. Term. The term of this Agreement shall be from the effective date through June 30, 2027, unless sooner terminated as provided in Section 12 of this Agreement. The City Manager or their designee may extend the time of performance in writing for two additional one-year terms, or such other term not to exceed two years from the date of termination, pursuant to the same terms and conditions of this Agreement. If not renewed prior to the termination date, this Agreement may continue on a month-to-month basis under the same terms and conditions for a maximum period not to exceed six months or until renewed, terminated or awarded to a new contractor, whichever is less.

4. Time of Performance.

A. Contractor will not perform any work under this Agreement until:

1) Contractor furnishes proof of insurance as required under Section 14 of this Agreement; and

2) City gives Contractor a written notice to proceed.

B. Should Contractor begin work in advance of receiving written authorization to proceed, any such services are at Contractor's own risk.

5. Time. Time is of the essence in this Agreement.

6. Force Majeure. Neither City nor Contractor shall be responsible for delays in performance under this Agreement due to causes beyond its control, including but not limited to acts of God, acts of public enemies, acts of the government, fires, floods or other casualty, epidemics, earthquakes, labor stoppages or slowdowns, freight embargoes, unusually severe weather, and supplier delays due to such causes. Neither economic nor market conditions nor the financial condition of either party shall be considered a cause to excuse delay pursuant to this Section. Each party shall notify the other promptly in writing of each such excusable delay, its cause and its expected delay, and shall upon request update such notice.

7. Compensation.

A. In no event shall the total compensation paid to Contractor from the effective date – June 30, 2027, exceed the sum of Three Hundred Thousand Dollars (\$300,000.00).

B. The amount set forth in paragraph A of this Section includes reimbursement for all expenditures incurred in the performance of this Agreement.

8. Payments. Contractor shall submit to City an invoice on a monthly basis for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period, hourly rates charged, if applicable, and the amount due. City shall review each invoice and notify Contractor in writing within ten business days of receipt of any disputed invoice amounts.

City shall make payments within 30 days after receipt of an undisputed and properly submitted payment request from Contractor. City shall return to Contractor any payment request determined not to be a proper payment request as soon as practicable, but not later than seven days after receipt, and shall explain in writing the reason(s) why the payment request is not proper.

9. Taxes. Contractor shall calculate payment for all sales, unemployment, and other taxes imposed by local, State of California and federal law. These payments are included in the total amounts in Exhibit B.

10. Audit. City or its representative shall have the option of inspecting and/or auditing all records and other written materials used by Contractor in preparing its billings to City as a condition precedent to any payment to Contractor. Contractor will promptly furnish documents requested by City. Additionally, Contractor shall be subject to State Auditor examination and audit at the request of City or as part of any audit of City, for a period of three years after final payment under this Agreement.

11. Unresolved Disputes. In the event of any dispute or controversy with City over any matter whatsoever, Contractor shall not cause any delay or cessation in or of work, but shall proceed with the performance of the work in dispute. Manhattan Beach Municipal Code Chapter 2.56 (“Matters Requiring Filing of Claims”) shall govern the procedures of the claim process, and these provisions are incorporated herein by this reference.

12. Termination. This Agreement may be canceled by City at any time with or without cause and without penalty upon 30 days’ written notice. In the event of termination without fault of Contractor, City shall pay Contractor for all services satisfactorily rendered prior to date of termination, and such payment shall be in full satisfaction of all services rendered hereunder.

13. Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnities.

1) To the fullest extent permitted by law, Contractor shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively “Indemnitees”), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively “Liabilities”), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees’ active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees, as determined by judicial decision or by the agreement of the parties. Contractor shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees’ choice, and shall pay all costs and expenses, including all attorneys’ fees and experts’ costs actually incurred in connection with such defense. Contractor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers’ compensation law regarding Contractor and Contractor’s employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable workers’ compensation laws. City may offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as

a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2.

3) Contractor shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. If Contractor fails to obtain such indemnity obligations, Contractor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the parties.

B. Workers' Compensation Acts not Limiting. Contractor's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Contractor's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

14. Insurance Requirements.

A. Minimum Scope and Limits of Insurance. Contractor shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000.00 per project or location. If Contractor is a limited liability company, the commercial general liability coverage shall be amended so that Contractor and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of \$2,000,000.00 per accident for bodily injury and property damage. If Contractor does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Contractor shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Section.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Contractor has no employees while performing Services under this Agreement, a workers' compensation policy is not required, but Contractor shall execute a declaration that it has no employees.

B. Acceptability of Insurers. The insurance policies required under this Section shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self insurance shall not be considered to comply with the insurance requirements under this Section.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

D. Primary and Non-Contributing. The insurance policies required under this Section shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.

E. Contractor's Waiver of Subrogation. The insurance policies required under this Section shall not prohibit Contractor and Contractor's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Contractor shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Contractor shall not cancel, reduce or otherwise modify the insurance policies required by this Section during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Section is canceled or reduced in coverage or limits, Contractor shall, within two business days of notice from

the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Contractor does not maintain the policies of insurance required under this Section in full force and effect during the term of this Agreement, or in the event any of Contractor's policies do not comply with the requirements under this Section, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Contractor's expense, the premium thereon. Contractor shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Contractor.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Contractor shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section. The endorsements are subject to City's approval. Contractor may provide complete, certified copies of all required insurance policies to City. Contractor shall maintain current endorsements on file with City's Risk Manager. Contractor shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Contractor shall furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Contractor shall not be construed as a limitation of Contractor's liability or as full performance of Contractor's duty to indemnify City under Section 13 of this Agreement.

K. Broader Coverage/Higher Limits. If Contractor maintains broader coverage and/or higher limits than the minimums required above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

L. Subcontractor Insurance Requirements. Contractor shall require each of its subcontractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section.

15. Antitrust Claims. Contractor offers and agrees to assign to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the California Business and Professions Code) arising from purchases of goods, services, or materials pursuant to this Agreement. This assignment shall be made and become effective at the time City tenders final payment to Contractor without further acknowledgment by the parties.

16. Familiarity with Work.

A. By executing this Agreement, Contractor represents that it has

- 1) Thoroughly investigated and considered the scope of services to be performed;
- 2) Carefully considered how the services should be performed; and
- 3) Understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.

B. If services involve work upon any site, Contractor warrants that it has or will investigate the site and is or will be fully acquainted with the conditions there existing, before commencing the services hereunder. Should Contractor discover any latent or unknown conditions that may materially affect the performance of the services, Contractor will immediately inform City of such fact and will not proceed except at Contractor's own risk until written instructions are received from City.

17. Independent Contractor. Contractor is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as herein set forth; and Contractor is free to dispose of all portions of its time and activities which it is not obligated to devote to City in such a manner and to such persons, firms, or corporations as Contractor wishes except as expressly provided in this Agreement. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Contractor shall not, at any time or in any manner, represent that it or any of its agents, servants or employees, are in any manner agents, servants or employees of City. Contractor agrees to pay all required taxes on amounts paid to Contractor under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and its employees. Contractor further agrees to indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City shall have the right to offset against the amount of any compensation due to Contractor under this Agreement any amount due to City from Contractor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

18. Prevailing Wages. City and Contractor acknowledge that this project is a public work to which prevailing wages apply. Contractor shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in Exhibit C, attached hereto and incorporated herein by this reference.

19. Workers' Compensation Insurance. California Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

“I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

20. Nondiscriminatory Employment. Contractor shall not unlawfully discriminate against any individual based on race, color, religion, nationality, gender, sex, sexual orientation, age or condition of disability. Contractor understands and agrees that it is bound by and will comply with the nondiscrimination mandates of all statutes and local ordinances and regulations.

21. Debarred, Suspended or Ineligible Contractors. Contractor shall not be debarred throughout the duration of this Agreement. Contractor shall not perform work with debarred subcontractors pursuant to California Labor Code Section 1777.1 or 1777.7.

22. Compliance with Laws. Contractor shall comply with all applicable federal, state and local laws, ordinances, codes and regulations in force at the time Contractor performs pursuant to this Agreement.

23. Payment Bond: **REQUIRED** – or – **NOT REQUIRED**

24. Contractor’s Representations. Contractor represents, covenants and agrees that: a) Contractor is licensed, qualified, and capable of furnishing the labor, materials, and expertise necessary to perform the services in accordance with the terms and conditions set forth in this Agreement; b) there are no obligations, commitments, or impediments of any kind that will limit or prevent its full performance under this Agreement; c) there is no litigation pending against Contractor, and Contractor is not the subject of any criminal investigation or proceeding; and d) to Contractor’s actual knowledge, neither Contractor nor its personnel have been convicted of a felony.

25. Warranty. The work shall be warranted by Contractor against defective materials and workmanship for a period of one year. The warranty period shall start on the date the work is completed as determined by the Director.

The warranty period for specific items covered under manufacturers’ or suppliers’ warranties shall commence on the date they are placed into service at the direction of or as approved by the Director in writing.

All warranties, express or implied, from subcontractors, manufacturers, or suppliers, of any tier, for the materials furnished and work performed shall be assigned, in writing, to City, and such warranties shall be delivered to the Director prior to acceptance of Contractor’s performance of the Agreement.

Contractor shall replace or repair defective materials and workmanship in a manner satisfactory to the Director, after notice to do so from the Director, and within the

time specified in the notice. If Contractor fails to make such replacement or repairs within the time specified in the notice, City may perform the replacement or repairs at Contractor's expense. If Contractor fails to reimburse City for the actual costs, Contractor's Surety shall be liable for the cost thereof.

26. Conflicts of Interest. Contractor agrees not to accept any employment or representation during the term of this Agreement or within 12 months after completion of the services under this Agreement which is or may likely make Contractor "financially interested," as provided in Government Code Sections 1090 and 87100, in any decisions made by City on any matter in connection with which Contractor has been retained pursuant to this Agreement.

27. Third Party Claims. City shall have full authority to compromise or otherwise settle any claim relating to this Agreement at any time. City shall timely notify Contractor of the receipt of any third-party claim relating to this Agreement. City shall be entitled to recover its reasonable costs incurred in providing this notice.

28. Non-Assignability; Subcontracting. Contractor shall not assign or transfer any interest in this Agreement nor any part thereof, whether by assignment or novation, without City's prior written consent. Any purported assignment without written consent shall be null, void, and of no effect; and Contractor shall hold harmless, defend and indemnify City and its officers, officials, employees, agents and representatives with respect to any claim, demand or action arising from or relating to any unauthorized assignment.

29. Applicable Law. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California, excluding California's choice of law rules. Venue for any such action relating to this Agreement shall be in the Los Angeles County Superior Court.

30. Attorneys' Fees. If any legal action or other proceeding, including action for declaratory relief, is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover all attorneys' fees, experts' fees, and other costs actually incurred in connection with such litigation or other proceeding, in addition to any other relief to which the party may be entitled.

31. Titles. The titles used in this Agreement are for convenience only and shall in no way define, limit or describe the scope or intent of this Agreement or any part of it.

32. Authority. The persons executing this Agreement on behalf of Contractor warrant and represent that they have the authority to execute this Agreement on behalf of Contractor and have the authority to bind Contractor to the performance of its obligations hereunder.

33. Incorporation by Reference. All Exhibits attached hereto are incorporated herein by reference. The documents, payment and performance bonds, City insurance requirements, together with this written Agreement (and all Exhibits, documents and laws

referenced therein), shall constitute the entire agreement between the parties as to the subject matter of this Agreement. In the event of any conflict between this Agreement and any Exhibit hereto, the provisions of this Agreement shall control.

34. Entire Agreement. This Agreement, including any other documents incorporated herein by specific reference, represents the entire and integrated agreement between City and Contractor. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing signed by both parties which expressly refers to this Agreement.

35. Construction. In the event of any asserted ambiguity in, or dispute regarding the interpretation of any matter herein, the interpretation of this Agreement shall not be resolved by any rules of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the party who drafted this Agreement or who drafted that portion of this Agreement.

36. Non-waiver of Terms, Rights and Remedies. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Contractor constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of Contractor, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

37. Notice. Except as otherwise required by law, any notice or other communication authorized or required by this Agreement shall be in writing and shall be deemed received on (a) the day of delivery if delivered by hand or overnight courier service during Contractor's or City's regular business hours or (b) on the third business day following deposit in the United States mail, postage prepaid, to the addresses listed below, or at such other address as one party may notify the other:

To City:

City of Manhattan Beach Public Works
Attention: Public Works Director
3621 Bell Avenue
Manhattan Beach, CA 90266

To Contractor:

Erik Duthie, Vice President/General Manager
Duthie Electric Service Corporation dba Duthie Power Services
2335 E. Cherry Industrial Circle
Long Beach, CA 90805

38. Counterparts. This Agreement may be executed in counterpart originals, duplicate originals, or both, each of which is deemed to be an original for all purposes.

39. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed the within Agreement the day and year first above written.

City:

City of Manhattan Beach,
a California municipal corporation

Contractor:

Duthie Electric Service Corporation dba
Duthie Power Services
a California corporation

By: _____

Name: Bruce Moe
Title: City Manager

By: _____

Name: Erik Duthie
Title: Vice President/General Manager

ATTEST:

By: _____

Name: Liza Tamura
Title: City Clerk

**PROOF OF AUTHORITY TO BIND
CONTRACTING PARTY REQUIRED**

APPROVED AS TO FORM:

APPROVED AS TO FISCAL CONTENT:

By: _____

Name: Quinn M. Barrow
Title: City Attorney

By: _____

Name: Steve S. Charelian
Title: Finance Director

APPROVED AS TO CONTENT:

By: _____

Name: Erick Lee
Title: Public Works Director

EXHIBIT A

Scope of Work

Contractor will provide complete service and maintenance of the equipment covered under these specifications. City's goal is to maintain a 98 percent uptime on the auxiliary generators. In order to achieve this, Contractor shall provide complete service and maintenance of the generators (as recommended by the manufacturer), including annual inspections, preventive maintenance, oil changes, coolants, annual safety inspections and emergency service, as covered under these specifications. Contractor shall provide all labor, transportation, parts, supplies, oil, lubricants, coolant, and other material required to maintain the equipment in good and safe operating condition.

All service and maintenance shall be performed by trained, qualified and certified journeymen level technicians. The use of entry level or apprentice technicians shall not be allowed under this Agreement. Contractor must maintain an adequate inventory of replacement parts and materials.

Except for emergencies, Contractor shall provide the Equipment Maintenance Supervisor with at least one week's notice for any proposed work on the equipment. This is necessary in order to coordinate and notify end users of any potential emergency equipment outages.

1. Automated Transfer Switch (ATS) Service to include the following:
 - Shut down power and de-energize the ATS (everything that is backed up by the ATS will be down, unless you have an isolation bypass ATS).
 - Clean, lubricate and inspect transfer mechanism, check alignment, and manually operate in accordance with manufacturers' instructions.
 - Check switch to ensure positive interlock between normal and alternate sources.
 - Check bypass and isolation features, if applicable.
 - Check tightness of all d-energized cable connections and bus and joints.
 - All arc chutes and pole covers are removed and cleaned. Main current carrying contacts inspected for water.
 - Control wiring is inspected, and all electrical connections checked for tightness.
 - Perform contact resistance tests with switch in both source positions.
 - Monitor and verify correct operation and timing for the following:
 - Normal voltage sensing relays (if any)
 - Engine start sequence
 - Time delay upon transfer
 - Alternate voltage sensing relay
 - Automatic transfer operation
 - Interlocks and limit switch function

- Timing delay and retransfer upon normal power restoration

2. Hours of Operation, Routine Maintenance, and Emergency Response

- Work Hours

- Regular maintenance must be performed between 8:00 am and 4:30 pm Tuesday through Thursday, except City recognized holidays.
- No overtime will be allowed without prior authorization.
- Work performed as regular maintenance must be completed before 4:30 pm, unless authorized by City's Fleet Supervisor or his designee.

- Routine Maintenance

- Contractor shall provide routine maintenance services as part of this contract based on the schedule listed in Attachment to the RFP.
- City reserves the right to change the maintenance intervals or service requirements at any time during the term of the contract.

3. Rental of Generators, Training, Personnel, Parts & Supplies

- Rental of Generators

- If, during the emergency repair of a generator, staff determines a rental generator is required, Contractor will respond with immediate efforts to initiate the process required to obtain and deliver a rental unit and once put in place.
- Contractor will continue to provide and support same rental unit until such time as City's generator is fully functional.

- Training

- Contractor shall be required to provide training to City staff as required on the operating procedures and upkeep between regular service calls, and resetting and reading control boards.

- Personnel

- Service shall be done by fully qualified and trained State certified technicians in mechanical and electrical. In addition for several

locations, technicians must be confined space certified and possess the proper tools to perform maintenance in vaults.

- Parts and Supplies
 - Contractor shall maintain a parts (OEM or equal) inventory, all lubricants, cleaning supplies, gas detection equipment, and tools necessary to perform the work described in these specifications.
 - Contractor must use lubricants recommended by the equipment manufacturer.
 - City may inspect Contractor's facilities to determine adequacy.

4. Records

- All maintenance (work performed and routine inspections) records for each piece of City's equipment must be accessible online by any City staff that has a need to know. The log shall include reasons for service, date, length of time spent on maintenance, technician's name and resolution. Access shall be available either by a Contractor provided link to City's account or by the assignment of passwords. The maintenance records shall be deemed property of City, and City shall reserve the right to download or request copies of such records at any time during the time the contract is in effect or at the conclusion of the contract. All maintenance/service records shall be retained by Contractor and available online for a period of no less than one year after termination of the contract.
- Payment may be withheld until these records are updated.

5. Modifications

- Contractor shall make no modifications to any generator or switch, which alters the configuration or render any component unserviceable. In the event, modification is necessary for the safe and proper operation, prior approval must be obtained from City's Fleet Supervisor or his designee.

6. Pricing

- Proposer shall provide services at the rates set forth on the attached Cost Proposal Sheet. Prices must be indicated on the sheet provided and returned with each Proposal. Prices shall remain firm the initial 36-month period of the contract. After that time the prices may be adjusted annually

by an amount not-to-exceed the Consumer Price Index (CPI) for the prior 12-month period with a maximum allowance of 5% annually. Contractor must notify City in writing at least thirty (30) days prior to any proposed price increase. All price increases must be justified with evidence of the increased costs borne by Contractor. The percentage of any mark-up for parts may not be increased during the entire contract term. In addition, the parts markup (maximum of 15%) shall remain firm for the duration of the contract.

- All repairs caused by poor preventative maintenance will be the responsibility of Contractor at no additional cost to City.
- Any recommendations for repairs and maintenance services shall be presented to City's Fleet Supervisor or his designee in the form of written estimates. Contractor shall inform City staff in advance of repairs not covered under the maintenance agreement and shall provide a written cost estimate. This requirement is waived for emergency repairs as defined below. No work may begin until the cost estimate has been received and the work approved by City's Fleet Supervisor or his designee.

City reserves the right to obtain competitive quotes for repairs not covered under the maintenance agreement. In the event that as a result of maintenance services covered under this Agreement, repair work is recommended that is required to be bid out pursuant to State law, Contractor acknowledges and agrees that City will bid out such work unless deemed to be an emergency repair.

7. Contractor's Responsibilities

- Employees
 - Background and Security. All personnel engaged to work shall be employees of Contractor and as such shall be warranted to possess sufficient experience and security clearance to perform this work. Fingerprints shall be required and can be processed through any facility offering LiveScan services. Results need to be sent to mail code is 08602. There is a fee for this service.
 - Health. Contractor shall not allow any employee under the influence of alcohol or drugs on the premises or in the buildings. Contractor shall

not allow the use or presence of alcohol or drugs on the premises or in any of the buildings.

- Identification. All employees shall wear uniforms identifying the name of the company and the individual's name (furnished by Contractor) at all times during the performance of this work.
- Conduct. No person(s) shall be employed for this work that is found by City to be incompetent, disorderly, troublesome, under the influence of alcohol or drugs, who fails or refuses to perform the work properly and acceptably, or is otherwise objectionable. Any person found to be objectionable by City shall not be permitted to work at any City facility by Contractor.
- Equipment
 - Contractor must provide personnel adequately equipped to perform service.
 - Contractor's staff is required to show up at the designated time.
 - If contractor fails to meet this requirement, Contractor will be charged for any City staff time expended.
- Licenses
 - Contractor must hold all required local, State, and Federal licenses.

8. Warranty

- City requires a minimum of a one year warranty on all labor and workmanship for all work, unless Contractor offers better. In addition, parts shall be new and subject to the manufacturer's warranty period. All equipment and materials provided by Contractor shall be merchantable and fit for the purpose intended.
- Should any defects in workmanship, except normal wear and tear, appear during their respective warranty period; Contractor shall correct or replace the same at no additional cost to City. Contractor shall be liable for secondary, incidental, or consequential damages of any nature resulting from any work performed under this Agreement.
- For parts, only the labor for replacement of the failed part shall be subject to any charge if the one year labor warranty period has expired.
- Labor charges shall be made at the rates specified on the attached Proposed Price Sheet.
- If Contractor fails to correct the problem under the warranty within a reasonable time, City may elect to have the work performed by someone else. Contract shall refund to City, the charge paid to another contractor, which is attributable to such portions of the faulty, defective or incorrect work.

9. Safety

- Some emergency generators are located in areas designated “confined space.” Contractor shall be responsible to ensure that any work performed by its employees in these areas comply with all applicable federal, state and local safety regulations that pertain to confined space.
- Contractor shall also conform to the rules and regulations pertaining to safety as established by the State of California Department of Industrial Safety.
- All furnished equipment, materials and services must comply with OSHA (and CAL OSHA) standards and regulations, and all applicable laws and orders.

EXHIBIT B

Fee Schedule

1310-23 Auxiliary Generator Maintenance Services Cost Proposal

Please note that this is a fixed price, and the City will not pay for travel time, fuel surcharge, environmental fees or incidentals.

Hourly rates for repairs:

Regular:	Rate	Minimum	Emergency after hours (weekdays after 4:30 pm and Saturdays)	Minimum	Emergency after hours (Sundays and Holidays)	Minimum		
Generator 1-Man	\$170.00	4 hours	Auxiliary generator	\$262.50	4 hours	Auxiliary generator	\$340.00	4 hours
Generator 2-Man	\$340.00					Transfer switch	\$340.00	4 hours
Transfer switch 1-Man	\$170.00	4 hours	Transfer switch	\$262.50	4 hours	Transfer switch	\$340.00	4 hours
Transfer switch 2-Man	\$340.00					Parts Markup (maximum of 15%)	15%	
Billing increments 1-Man	\$170.00	4 hours	Transfer switch	\$262.50	4 hours			
Billing increments 2-Man	\$340.00							

LIST OF CITY GENERATORS

Reference Number	GoReach Tag No.	Generator Location/ Address	Description	S.C.E. Power	Generator Power	Serial Number	Annual Service Fee	ATS Service Fee
Water System								
3	110	Block 35 Water Plant 1427 6th St.	Onan 350 kW Diesel	277/480 3Phase 4 Wire	480V 3Phase 420.73 Amp	B990865453	Semi-Annual \$414.00 Annual \$990.79	\$800.00
4	111	Peck Reservoir 1800 Peck Ave	Onan 1100 kW Diesel			TBD	Semi-Annual \$598.00 Annual \$1,688.89	\$800.00
5	114	Well 15 2230 Manhattan Beach Blvd. Redondo Beach	Onan 350 kW Diesel	480 3Phase 3wire	480V 3Phase 420.73 Amp	B990865452	Semi-Annual \$414.00 Annual \$789.54	\$800.00
6	112	Well 11A 1932 Manhattan Beach Blvd. Redondo Beach	Cummins/Onan 500 kW			TBD	Semi-Annual \$470.00 Annual \$1,256.23	\$800.00
7	115	Larsson St. Booster Station 213 Larsson St.	Onan 60 kW Diesel	480V 3Phase 3 Wire	480V 3phase 72.13 Amp	45807206 335443	Semi-Annual \$380.00 Annual \$590.96	\$800.00
Wastewater System								
8	106	Bell Ave. Station 3100 Bell Ave.	Onan 20 kW Diesel	480V 3Phase 4 Wire	480V 3phase PF=0.8 30.11 Amp 25kVA	F980753175	Semi-Annual \$380.00 Annual \$573.38	\$800.00
9	109	Poinsettia Lift Station 903 Poinsettia Ave.	Onan 20 kW Diesel	240V 3Phase 3Wire	240 3Phase 48.08 Amp	J953446241C	Semi-Annual \$380.00 Annual \$558.59	\$800.00
10	116	Palm Ave Lift Station 3529 Palm Ave.	Onan 20 kW Diesel	480V 3Phase 3wire	480V 3Phase PF=0.8 30.11 Amp 25kVA	J953446241	Semi-Annual \$380.00 Annual \$558.59	\$800.00
11	108	Pacific Ave Lift Station 2803 Pacific Ave	Onan 20 kW Diesel	480V 3Phase 3Wire	480V 3Phase PF=0.8 30.11 Amp 25kVA	K9807513171	Semi-Annual \$380.00 Annual \$555.83	\$800.00
12	105	Voorhees Ave Lift Station 1364 Voorhees Ave.	Onan 20 kW Diesel	480V 3Phase 3Wire	480V 3Phase PF=0.8 30.11 Amp 25kVA	F980753172	Semi-Annual \$380.00 Annual \$558.59	\$800.00
13	107	Meadows Ave Lift Station 1300 Meadows Ave	Onan 20 kW Diesel	480V 3Phase 3Wire	480V 3Phase PF=0.8 30.11 Amp 25kVA	F980753174	Semi-Annual \$380.00 Annual \$573.38	\$800.00
Miscellaneous Facilities								
14	302	Public Works Yard 3621 Bell Ave.	Onan 60 kW Diesel	480V 3Phase 3 Wire	480V 3phase 72.13 Amp	K930524143	Semi-Annual \$380.00 Annual \$555.83	\$800.00
15	300	City Hall 1400 Highland Ave	Onan 250 kW Diesel	480V 3Phase 4Wire	277/480V 3Phase 312.5kVA 375.89 Amps	J960620025	Semi-Annual \$414.00 Annual \$759.02	\$800.00
16	304	Fire Station #2 1400 Manhattan Beach Bl	Onan/Cummins 20 kW		New Facility and generator has not been purchased yet	TBD	Semi-Annual \$380.00 Annual \$573.38	\$800.00
	306	Public Safety Facility 420 15 Th St	Cat 800 kW Diesel	480V 3Phase 3Wire	480V 3phase 1204 Amps	AFR00597	Semi-Annual \$719.00 Annual \$1,676.91	\$800.00

18	408	Metlox Plaza 1220 Morningside Dr	Cummins 80 kW Diesel	277/480V 3Phase 4Wire	277/480V 3Phase 4Wire 12.3 Amp	DGDA5632302	Semi-Annual \$380.00 Annual \$599.50	\$800.00
19	307	Joslyn Center 1601 Valley Dr	Connection Point Only		Doosan model G125WCU-3A-T4F	TBD	Connection Point only No equipment to PM	N/A
20	311	Manhattan Heights 1600 Manhattan Beach Bl	Connection Point Only		Doosan model G125WCU-3A-T4F	TBD	Connection Point only No equipment to PM	N/A
21	302	Portable Generator 3621 Bell Ave	Atlas Copco 60 kW	Joslyn Center Manhattan Heights	277/480V 3Phase 4Wire 90 Amp	699-284	Semi-Annual Annual	\$800.00
22	802	Pier Aquarium 100 Manhattan Beach Bl	Connection Point Only	Not included in contract				
Reference Number	GoReach Tag No.	Generator Location/ Adress	Description	S.C.E. Power	Generator Power	Serial Number	Load Test Fee	

Load Test Performed Once Every Five Years

5	114	Well 15 2230 Manhattan Beach Blvd. Redondo Beach	Onan 350 kW Diesel	480 3Phase 3wire	480V 3Phase 420.73 Amp	B990865452	2 hour Load bank = \$3,675.00	
6	112	Well 11A 1932 Manhattan Beach Blvd. Redondo Beach	Cummins/Onan 500 kW			TBD	2 hour load bank = \$3,950.00	
15	300	City Hall 1400 Highland Ave	Onan 250 kW Diesel	480 V 3Phase 4Wire	277/480V 3Phase 3.125kVA 375.89 Amps	J960620025	2 hour load bank = \$2,175.00	
17	306	Public Safety Facility 420 15th St	Cat 800 kW Diesel	480 V 3Phase 4Wire	480V 3Phase 3.125kVA 375.89 Amps	AFR00597	2 hour load bank = \$3,150.00	

GENERATOR FUEL USE AND CAPACITIES

USEAGE AT LOAD					TANK CAPACITY (Gallons)			FULL LOAD RUN TIME (Hrs.)
1/4	1/2	3/4	FULL					
1.7 GPH	2.6 GPH	3.6 GPH	4.7 GPH	132.9777778			28	
8'X40"X8" TANK								
LARSSON STREET								
USEAGE AT LOAD					TANK CAPACITY (Gallons)			FULL LOAD RUN TIME (Hrs.)
1.7 GPH	2.6 GPH	3.6 GPH	4.7 GPH	60			12.77	
100 kW PORTABLE GENERATOR								
USEAGE AT LOAD					TANK CAPACITY (Gallons)			FULL LOAD RUN TIME (Hrs.)
1.4 GPH	2.3 GPH	3.2 GPH	4.8 GPH	50			10.42	
BLOCK 35								
USEAGE AT LOAD					TANK CAPACITY (Gallons)			FULL LOAD RUN TIME (Hrs.)
8 GPH	13.4 GPH	19 GPH	24.4 GPH	300			12.3	
WELL 11A - Approximate Specifications								
USEAGE AT LOAD					TANK CAPACITY (Gallons)			FULL LOAD RUN TIME (Hrs.)
8 GPH	13.4 GPH	19 GPH	24.4 GPH	300			12.3	
WELL 15								
USEAGE AT LOAD					TANK CAPACITY (Gallons)			FULL LOAD RUN TIME (Hrs.)
8 GPH	13.4 GPH	19 GPH	24.4 GPH	300			12.3	
PECK RESERVOIR - Approximate Specifications								
USEAGE AT LOAD					TANK CAPACITY (Gallons)			FULL LOAD RUN TIME (Hrs.)
16 GPH	26.2 GPH	40.5 GPH	54.7 GPH	500			9.14	
CITY HALL								
USEAGE AT LOAD					TANK CAPACITY (Gallons)			FULL LOAD RUN TIME (Hrs.)
5.5 GPH	9.3 GPH	13.1 GPH	16.8 GPH	4000			238.1	
FIRE STATION 2 - Approximate Specifications								
USEAGE AT LOAD					TANK CAPACITY (Gallons)			FULL LOAD RUN TIME (Hrs.)
.8 GPH	1.1 GPH	1.45 GPH	1.95 GPH	74.8			38.36	
POINSETTIA								
USEAGE AT LOAD					TANK CAPACITY (Gallons)			FULL LOAD RUN TIME (Hrs.)
.8 GPH	1.1 GPH	1.45 GPH	1.95 GPH	25			12.82	
PACIFIC								
USEAGE AT LOAD					TANK CAPACITY (Gallons)			FULL LOAD RUN TIME (Hrs.)
.8 GPH	1.1 GPH	1.45 GPH	1.95 GPH	64.81			48.62	

57"X26.5"X14.5" TANK

GENERATOR FUEL USE AND CAPACITIES				
BELL				
USEAGE AT LOAD				
1/4	1/2	3/4	FULL	
.8 GPH	1.1 GPH	1.45 GPH	1.95 GPH	
TANK CAPACITY (Gallons)			94.81	FULL LOAD RUN TIME (Hrs.)
				48.62
57"X26.5"X14.5" TANK				
VOORHEES				
USEAGE AT LOAD				
1/4	1/2	3/4	FULL	
.8 GPH	1.1 GPH	1.45 GPH	1.95 GPH	
TANK CAPACITY (Gallons)			94.81	FULL LOAD RUN TIME (Hrs.)
				48.62
57"X26.5"X14.5" TANK				
MEADOWS				
USEAGE AT LOAD				
1/4	1/2	3/4	FULL	
.8 GPH	1.1 GPH	1.45 GPH	1.95 GPH	
TANK CAPACITY (Gallons)			94.81	FULL LOAD RUN TIME (Hrs.)
				48.62
57"X26.5"X14.5" TANK				
PALM				
USEAGE AT LOAD				
1/4	1/2	3/4	FULL	
.8 GPH	1.1 GPH	1.45 GPH	1.95 GPH	
TANK CAPACITY (Gallons)			94.81	FULL LOAD RUN TIME (Hrs.)
				48.62
57"X26.5"X14.5" TANK				
FIRE STATION 1/PRESENT GENERATOR - Approximate Specifications				
USEAGE AT LOAD				
1/4	1/2	3/4	FULL	
2.7 GPH	5.2 GPH	7.7 GPH	10.2 GPH	
TANK CAPACITY (Gallons)			250 GALLONS	FULL LOAD RUN TIME (Hrs.)
				24.5 HOURS
FIRE STATION 1/POLICE DEPT NEW GENERATOR				
USEAGE AT LOAD				
75%	80%	90%	100%	
800 EKW	640 EKW	720 EKW	800 EKW	
118.72 Hrs	111.83 Hrs	99.62 Hrs	88.75	
43.8 GPH	48.5 GPH	52.2 GPH	58.6 GPH	
TANK CAPACITY (Gallons)			5200	FULL LOAD RUN TIME (Hrs.)
				88.75
LOT M (METLOX PLAZA)				
USEAGE AT LOAD				
1/4	1/2	3/4	FULL	
TANK CAPACITY (Gallons)				FULL LOAD RUN TIME (Hrs.)

EXHIBIT C

Terms for Compliance with California Labor Law Requirements

1. Contractor acknowledges that the project as defined in this Agreement between Contractor and City, to which this Exhibit is attached and incorporated by reference, is a “public work” as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code (“Chapter 1”), and that this Agreement is subject to (a) Chapter 1, including without limitation Labor Code Section 1771 and (b) the rules and regulations established by the Director of Industrial Relations (“DIR”) implementing such statutes. Contractor shall perform all work on the project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.
2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.
3. Contractor shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the effective date of this Agreement. Contractor shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Contractor and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If Contractor or any subcontractor cease to be registered with DIR at any time during the duration of the project, Contractor shall immediately notify City.
4. Pursuant to Labor Code Section 1771.4, Contractor’s services are subject to compliance monitoring and enforcement by DIR. Contractor shall post job site notices, as prescribed by DIR regulations.
5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.
6. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Contractor shall, as a penalty to the City, forfeit two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

7. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776, (2) certify and make such payroll records available for inspection as provided by Section 1776, and (3) inform the City of the location of the records.

8. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code title 8, section 200 *et seq.* concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to the City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. Contractor acknowledges that eight hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25.00) for each worker employed in the performance of this Agreement by Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

10. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

11. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required

to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any failure.

12. To the maximum extent permitted by law, Contractor shall indemnify, hold harmless and defend (at Contractor's expense with counsel reasonably acceptable to the City) the City, its officials, officers, employees, agents and independent contractors serving in the role of City officials, and volunteers from and against any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses. All duties of Contractor under this Section shall survive termination of the Agreement.



CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Erick Lee, Public Works Director
Katherine Doherty, City Engineer
Eduardo Pech, Senior Civil Engineer

SUBJECT:

Consideration of Resolutions Awarding a Professional Inspection Services Agreement to Faith Group, Inc. for the Citywide Security Cameras Project - Phases 1 and 2 in the Amount of \$159,680, and for On-Call Construction Management and Inspection for Phase 3 of the Citywide Security Cameras Program for \$100,000 for a Two-Year Term (Public Works Director Lee).

ADOPT RESOLUTION NOS. 23-0144 AND 23-0145

RECOMMENDATION:

Staff recommends that City Council Adopt Resolution Nos. 23-0144 and 23-0145:

1. Awarding an Professional Inspection Services Agreement to Faith Group, Inc. for the Citywide Security Cameras Project - Phases 1 and 2 (Project) in the amount of \$159,680; and
2. Approving a Professional Services Agreement for On-Call Construction Management and Inspection Services for Phase 3 of the Citywide Security Cameras Program for \$100,000; and
3. Authorizing the City Manager and/or his or her designee to execute the agreement.

FISCAL IMPLICATIONS:

The inspection agreement under consideration with Faith Group, Inc. is for a total not-to-exceed amount of \$159,680. The Project is included in the 5-Year Capital Improvements Program (CIP) with a project budget of \$970,000. There are sufficient funds available in the project budget to cover the work under this agreement.

The On-Call Construction Management and Inspection Agreement will be used for Phase 3 of

the Citywide Security Cameras Program that is included in the adopted 5-Year Capital Improvement Program (CIP) Plan and/or projects separately approved by City Council. The proposed agreement will authorize City staff to issue Task Orders not to exceed \$100,000 to Faith Group, Inc. across various funds for a two-year term. The professional services provided pursuant to a given Task Order will be funded by the associated CIP project budget upon authorization by the City.

BACKGROUND:

On September 19, 2023, City Council awarded a construction agreement with BlueViolet Networks for a not-to-exceed amount of \$523,820.17 for Phases 1 and 2 of the Project. Phases 1 and 2 are the first of a safety and security enhancement program citywide. These phases, and the future Phase 3 project, focus on enhanced security for employees and visitors at City Hall and other City facilities. For construction and installation of security cameras included in Phases 1 and 2, a request for proposal (RFP) for inspection services was issued on October 2, 2023. Currently, Triad Consulting and System Design Group (Triad) is under contract to perform construction management services for Phase 1 of the Project. Staff is in discussions with Triad to amend the agreement to include construction management services for Phase 2 of the Project as well, since they will be constructed at the same time.

Also on October 2, 2023, a request for qualifications (RFQ) for on-call construction management and inspection services was issued for Phase 3 of the Citywide Security Cameras Program. Moving forward with Phase 3 will also require construction management and inspection professional services. To streamline the consultant selection process, the Public Works Department has previously used on-call agreements for professional services. Staff has found it beneficial to contract with multiple firms for professional services in the event one consultant becomes unavailable due to workload or a conflict of interest, or if a third-party peer review is necessary. The Department typically enters into professional services agreements for construction management and inspection for CIP projects due to the specialized nature of the services and in-house resource availability.

DISCUSSION:

The City issued a RFP and RFQ on October 2, 2023, seeking full-time inspection services for the Project, and on-call construction management and inspection services for Phase 3 of the Citywide Security Cameras Program. The scope of work includes:

- Ensuring the contractor complies with the plans, specifications, and applicable standards;
- Performing field project oversight;
- Documenting the daily work performed by the contractor;
- Verifying the completed work; monitoring, providing supporting documentation, and inspecting any additional work performed; and
- Preparing a list of items for correction.

Two proposals were received by the October 23, 2023, deadline. These proposals were evaluated by an evaluation committee of City staff according to the following selection criteria:

- Demonstrated understanding of the Scope of Services requested;

- Firm qualifications and experience performing similar work;
- Project/Construction management methods and quality control;
- Qualifications and experience of key personnel; and
- Consultant familiarity with local (sensitivity) conditions

Based on the selection criteria, Faith Group, Inc. provided a responsive proposal. The assigned staff has excellent experience on similar projects, identified and understands the key project issues, and proposed an appropriate level of staffing for the size and complexity of the project. Faith Group, Inc.'s methodology for executing the scope of work was clear and organized. Therefore, staff recommends that City Council award an inspection services agreement for Phases 1 and 2 of the Project to Faith Group, Inc.

Faith Group, Inc. has also been selected for inclusion on the on-call construction management and inspections list for Phase 3. Staff recommends the approval of one on-call construction management and inspections agreement with Faith Group, Inc. for a two-year term.

PUBLIC OUTREACH:

Staff has determined that community public outreach is not required for Phase 1 and 2 of the Project. Outreach has been ongoing with City employees and will continue as the Public Safety Camera System (PSCS) Policy is developed. The RPF and RFQ for these on-call professional services was advertised on the City's website and on PlanetBids, a public bid notification board. Phase 3 outreach for future phases will include community notifications and meetings, presentations to the Parking and Public Improvements Commission (PPIC), as appropriate, and consideration by City Council.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed Citywide Security Cameras Project and associated contract for compliance with the California Environmental Quality Act (CEQA) and has determined that there is no possibility that the activity may have a significant effect on the environment; therefore, pursuant to Section 15061(b)(3) (the "common sense" exemption) of the State CEQA Guidelines, the project is exempt from CEQA. Additionally, the project qualifies for a categorical exemption pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines, given that the project consists of minor alterations of existing public structures, with negligible or no expansion of use. Furthermore, there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Resolution No. 23-0144
2. Agreement - Faith Group, Inc.
3. Resolution No. 23-0145
4. Agreement - Faith Group, Inc.
5. Budget Expenditure Summary
6. Location Map

RESOLUTION NO. 23-0144

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING AN INSPECTION SERVICES AGREEMENT BETWEEN THE CITY OF MANHATTAN BEACH AND FAITH GROUP, LLC FOR THE CITYWIDE SECURITY CAMERAS PROJECT – PHASES 1 AND 2

THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council hereby approves the Agreement between the City of Manhattan Beach and Faith Group, LLC for Inspection Services for the Citywide Security Cameras Project – Phases 1 and 2, in the amount of \$159,680.

SECTION 2. The Council hereby directs the City Manager, and/or his or her designee, to execute the Agreement on behalf of the City.

SECTION 3. The City Clerk shall certify to the passage and adoption of this resolution.

ADOPTED on December 5, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

INSPECTION SERVICES AGREEMENT

This Inspection Services Agreement (“Agreement”) is between the City of Manhattan Beach, a California municipal corporation (“City”) and Faith Group, LLC, a limited partnership (“Consultant”). The date this Agreement is executed by the City Manager shall be the date this Agreement is effective (“Effective Date”). City and Consultant are sometimes referred to herein as the “Parties”, and individually as a “Party”.

RECITALS

A. City issued Request for Proposals and Qualifications No. E1286-23S on October 2, 2023, titled “Professional Construction Management and Inspection Services for Citywide Security Cameras Installation”. Consultant submitted a proposal dated October 23, 2023 in response to the RFP and RFQ.

B. Consultant represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

C. City desires to retain Consultant as an independent contractor and Consultant desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

The Parties therefore agree as follows:

1. **Consultant’s Services.**

A. Scope of Services. Consultant shall perform the services described in the Scope of Services (the “Services”) for professional inspection services for City Security Cameras Installation Project – Phases 1 & 2, attached as **Exhibit A**. City may request, in writing, changes in the Scope of Services to be performed. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

B. Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the “City Representative”). For the purposes of this Agreement, the Consultant Representative shall be Ryan Walsh, Principal/Director of Engineering (the “Consultant Representative”). The Consultant Representative shall directly manage Consultant’s Services under this Agreement. Consultant shall not change the Consultant Representative without City’s prior written consent.

C. Time for Performance. Consultant shall commence the Services on the Effective Date and shall perform all Services by the deadline established by the City Representative or, if no deadline is established, with reasonable diligence.

D. Standard of Performance. Consultant shall perform all Services under this Agreement in accordance with the standard of care generally exercised by like

professionals under similar circumstances and in a manner reasonably satisfactory to City.

E. Personnel. Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such Services.

F. Compliance with Laws. Consultant shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and requirements.

G. Permits and Licenses. Consultant shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of Services under this Agreement, including a business license.

H. Prevailing Wages. This Agreement calls for services that, in whole or in part, constitute “public works” as defined in the California Labor Code. Therefore, as to those services that are “public works”, Consultant shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in **Exhibit C** hereto.

2. Term of Agreement. The term of this Agreement shall be from the Effective Date through December 31, 2024, unless sooner terminated as provided in Section 12 of this Agreement or extended. The City Manager or his/her designee may extend the term of the Agreement in writing for up to two additional one-year terms or such other term not to exceed two years from the date of termination, pursuant to the same terms and conditions of this Agreement. If not renewed prior to the termination date, this Agreement may continue on a month-to-month basis under the same terms and conditions for a maximum period not to exceed six months or until renewed, terminated or awarded to a new consultant, whichever is less.

3. Compensation.

A. Compensation. As full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the Approved Fee Schedule attached hereto as **Exhibit B**. In no event shall Consultant be paid more than \$159,680.00 (the “Maximum Compensation”) for such Services.

B. Expenses. City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit B**.

C. Unauthorized Services and Expenses. City will not pay for any services not specified in the Scope of Services, or reimburse for any expenses not set forth in **Exhibit B**, unless the City Council or the City Manager, if within his or her authority, and the Consultant Representative authorize such services or expenses in writing prior to Consultant’s performance of those services or incurrence of additional expenses. Any additional services authorized by the City Council, or (where authorized) the City Manager shall be compensated at the rates set forth in **Exhibit B**, or, if not specified, at a rate

mutually agreed to by the Parties. Any additional expense authorized by the City Council or (where authorized) the City Manager shall be reimbursed in the amounts authorized by the City Council or City Manager. City shall make payment for additional services and expenses in accordance with Section 4 of this Agreement.

4. Method of Payment.

A. Invoices. Consultant shall submit to City an invoice, on a monthly basis, for the Services performed pursuant to this Agreement. Invoices must be submitted to Eduardo Pech, Senior Civil Engineer, at epech@manhattanbeach.gov. Each invoice shall itemize the Services rendered during the billing period, hourly rates charged, if applicable, and the amount due. City shall review each invoice and notify Consultant in writing within ten Business days of receipt of any disputed invoice amounts.

B. Payment. City shall pay all undisputed invoice amounts within 30 calendar days after receipt up to the Maximum Compensation set forth in Section 3 of this Agreement. City does not pay interest on past due amounts. City shall not withhold federal payroll, state payroll or other taxes, or other similar deductions, from payments made to Consultant. Notwithstanding the preceding sentence, if Consultant is a nonresident of California, City will withhold the amount required by the Franchise Tax Board pursuant to Revenue and Taxation Code Section 18662 and applicable regulations.

C. Audit of Records. Consultant shall make all records, invoices, time cards, cost control sheets and other records maintained by Consultant in connection with this Agreement available during Consultant's regular working hours to City for review and audit by City.

5. Independent Contractor. Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City.

6. Information and Documents.

A. Consultant covenants that all data, reports, documents, surveys, studies, drawings, plans, maps, models, photographs, discussion, or other information (collectively "Data and Documents") developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Consultant without prior written authorization by City. City shall grant such authorization if applicable law requires disclosure. Consultant, its officers, employees, agents, or subcontractors shall not without written authorization from the City Manager or unless requested in writing by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property

located within the City. Response to a subpoena or court order shall not be considered “voluntary,” provided Consultant gives City notice of such court order or subpoena.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City may, but has no obligation to, represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City’s right to review any such response does not imply or mean the right by City to control, direct or rewrite the response.

C. All Data and Documents required to be furnished to City in connection with this Agreement shall become City’s property, and City may use all or any portion of the Data submitted by Consultant as City deems appropriate. Upon completion of, or in the event of termination or suspension of this Agreement, all original Data and Documents, including computer files containing data generated for the Services, notes, and other documents prepared in the course of providing the Services shall become City’s sole property and may be used, reused or otherwise disposed of by City without Consultant’s permission. Consultant may take and retain copies of the written products as desired, but the written products shall not be the subject of a copyright application by Consultant.

D. Consultant’s covenants under this Section shall survive the expiration or termination of this Agreement.

7. Conflicts of Interest. Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant’s Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar Services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the City Representative’s prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

8. Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnities.

1) To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and

those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2).

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be

limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. No Design Services. Contractor acknowledges that the Services to be provided pursuant to this Agreement do not require the services of a "design professional," as the term is defined in California Civil Code Section 2782.8(c), and that therefore the provisions of California Civil Code Section 2782.8 do not apply to this Agreement.

E. Survival of Terms. Consultant's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

9. Insurance.

A. Minimum Scope and Limits of Insurance. Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of \$2,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Section.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required, but Consultant shall execute a declaration that it has no employees.

4) Professional Liability/Errors and Omissions Insurance with minimum limits of \$2,000,000.00 per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Section shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Section.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City, and its elected and appointed officials, officers, employees, agents and volunteers as additional insureds. This provision shall also apply to any excess/umbrella liability policies.

D. Primary and Non-Contributing. The insurance policies required under this Section shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its elected and appointed officials, officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

E. Consultant's Waiver of Subrogation. The insurance policies required under this Section shall not prohibit Consultant and Consultant's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Section during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Section is canceled or reduced in coverage or limits, Consultant shall, within two Business Days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Section in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Section, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Consultant shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with City's Risk Manager. Consultant shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under Section 8 of this Agreement.

K. Broader Coverage/Higher Limits. If Consultant maintains broader coverage and/or higher limits than the minimums required above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

L. Subcontractor Insurance Requirements. Consultant shall require each of its subcontractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section.

10. Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent Data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

11. Records and Inspections. Consultant shall maintain complete and accurate records with respect to time, costs, expenses, receipts, correspondence, and other such information required by City that relate to the performance of the Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to City, its designees and representatives at reasonable times, and shall allow City to examine and audit the books and records, to make transcripts therefrom as necessary, and to inspect all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three years after receipt of final payment.

12. Termination of Agreement.

A. Right to Terminate. City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Consultant at least five calendar days before the termination is to be effective. Consultant may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least 60 calendar days before the termination is to be effective.

B. Obligations upon Termination. Consultant shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure of performance by Consultant, City shall pay Consultant based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the Services required by this Agreement. Consultant shall have no other claim against City by reason of such termination, including any claim for compensation.

13. Force Majeure. Consultant shall not be liable for any failure to perform its obligations under this Agreement if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to acts of God, embargoes, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Consultant's reasonable control and not due to any act by Consultant.

14. Default.

A. Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default.

B. In addition to the right to terminate pursuant to Section 12, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City shall serve Consultant with written notice of the default. Consultant shall have ten calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

15. Notices. Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Consultant's and City's regular business hours, or (c) three

Business Days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

TO CITY:

City of Manhattan Beach
Public Works Department
Attn: Eduardo Pech, P.E.
1400 Highland Avenue
Manhattan Beach, California 90266

TO CONSULTANT:

Faith Group, LLC
Attn: Ryan Walsh, P.E.
3101 S. Hanley Road
St. Louis, Missouri 63143

COPY TO CITY ATTORNEY:

City of Manhattan Beach
Attn: City Attorney
1400 Highland Avenue
Manhattan Beach, CA 90266

16. Non-Discrimination and Equal Employment Opportunity. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information or sexual orientation.

17. Prohibition of Assignment and Delegation. Consultant shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City’s prior written consent. City’s consent to an assignment of rights under this Agreement shall not release Consultant from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this Section shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section, “assignment” and “delegation” means any sale, gift, pledge, hypothecation, encumbrance or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

18. No Third Party Beneficiaries Intended. This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

19. Waiver. No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement shall be (1) effective unless it is in writing and signed by the Party making the waiver, (2) deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy, or (3) deemed to constitute a continuing waiver unless the writing expressly so states.

20. Final Payment Acceptance Constitutes Release. The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's work or services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, subcontractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the work prepared by Consultant, its employees, subcontractors and agents.

21. Corrections. In addition to the above indemnification obligations, Consultant shall correct, at its expense, all errors in the work which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction in a reasonably timely manner, such correction may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction from any retention amount held by City or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction.

22. Non-Appropriation of Funds. Payments to be made to Consultant by City for services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's services beyond the current fiscal year, this Agreement shall cover payment for Consultant's services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

23. Exhibits. Exhibits A, B, and C constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, or between a provision of this Agreement and a provision of Consultant's proposal, the provisions of this Agreement shall control.

24. Entire Agreement and Modification of Agreement. This Agreement and all exhibits referred to in this Agreement constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other prior or contemporaneous oral or written

understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by both Parties.

25. Headings. The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

26. Word Usage. Unless the context clearly requires otherwise, (a) the words “shall,” “will” and “agrees” are mandatory and “may” is permissive; (b) “or” is not exclusive; and (c) “includes” or “including” are not limiting.

27. Time of the Essence. Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

28. Business Days. “Business days” means days Manhattan Beach City Hall is open for business.

29. Governing Law and Choice of Forum. This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of California, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a superior court with geographic jurisdiction over the City of Manhattan Beach.

30. Attorneys’ Fees. In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be entitled to recover all attorneys’ fees, experts’ fees, and other costs actually incurred in connection with such litigation or other proceeding, in addition to all other relief to which that Party may be entitled.

31. Severability. If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable for any reason, the validity of and enforceability of the remaining provisions of this Agreement shall not be affected and continue in full force and effect.

32. Counterparts. This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument.

33. Corporate Authority. Each person executing this Agreement on behalf of his or her Party warrants that he or she is duly authorized to execute this Agreement on behalf

of that Party and that by such execution, that Party is formally bound to the provisions of this Agreement.

[SIGNATURE PAGE FOLLOWS]

The Parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:

City of Manhattan Beach,
a California municipal corporation

Consultant:

Faith Group, LLC,
a limited liability company

By: _____

Name: Bruce Moe
Title: City Manager

By:  _____

Name: Ryan Walsh, P.E. 11/27/2023
Title: Principal, Director of Engineering

ATTEST:

By: _____

Name: Liza Tamura
Title: City Clerk

APPROVED AS TO FORM:

By: _____

Name: Quinn M. Barrow
Title: City Attorney

APPROVED AS TO FISCAL IMPACT:

By: _____

Name: Steve S. Charelian
Title: Finance Director

APPROVED AS TO CONTENT:

By: _____

Name: Erick Lee
Title: Public Works Director

EXHIBIT A SCOPE OF SERVICES

The Scope of Services may include, but is not limited to, the following tasks:

The Consultant shall assist the City with the inspection and/or special inspections of the Citywide Security Cameras Project – Phase 1 and 2 (Project). At minimum, the project includes the installation of a Video Surveillance System (VSS) over new cable infrastructure connected to the existing City network at four municipal sites (Public Works Yard, City Hall, Fire Department, and Police Department). The work may include additional sites, and installation of an Electronic Access Control System (EACS) and Security Intercom System (SIS).

The City seeks full-time construction inspection for the project, with the flexibility to perform part-time inspection if the construction only requires part-time inspection during the days with low-level construction activities on the Citywide Security Cameras Project – Phase 1 and 2 (Project). Inspection shall be performed daily and the inspector should be on-site on a full-time basis with the flexibility to be part-time as needed for the work days.

The Consultant's services maybe required from start to completion of the Citywide Security Cameras Project – Phase 1 and 2 (Project) to ensure the Contractor performs all the necessary work as described in the contract documents, as well as other tasks identified herein. All work will be performed to the highest professional standards and will reflect the thoroughness, attention to detail and professional knowledge expected in overview of all the associated construction phases.

Consultant project inspector will be required during preconstruction, construction, and closeout for the Project. The City expects the Consultant project inspector to be on-site for the entire duration of the construction and closeout of the Project. Construction duration of the Project may vary, and will be specified at the time of issuance of the Task Order Solicitation. The Consultant shall be responsible for inspection, which includes but is not limited to the overall contract compliance, contract change order review, schedule changes, construction inspections, and quantity calculations and verification. The City will have a project manager (City Project Manager) assigned to the project to be available for the project duration.

The typical workday includes all hours worked by the construction Contractor. The construction Contractor's operations may be restricted to specific hours during the week, which shall become the normal workday for Consultant personnel. The City Project Manager shall have the authority to increase, decrease, or eliminate Consultant personnel work hours' dependent on the schedule and requirements of the construction Contractor.

The tasks listed below are not intended to comprise a complete list, nor are they the only tasks required for the Project. The consultant shall submit a comprehensive and detailed scope of work required to complete the Task Order Solicitation. Consultant duties and responsibilities may include, but are not limited to, the following services:

Project Inspection Tasks

- A. Reviewing the contract documents, including plans, specifications, and quantities prior to the preconstruction meeting;
- B. Attending the Preconstruction Meeting;
- C. Documenting, with digital images and video, the preconstruction existing conditions of the work areas and project areas;
- D. Checking line, size, elevation, and location of improvements;
- E. Establishing effective communication with the Contractor and City staff;
- F. Providing full-time inspection services to ensure compliance with the Contract Documents and other requirements, such as, but not limited to Cal/OSHA Standards, contract change orders, permits, California Building Code and ASTM standards;
- G. Performing project oversight for the monitoring of damage to infrastructure;
- H. Evaluating the Contractor's daily performance and addressing deficiencies as they occur;
- I. Coordinating any field issues that require deviations from the Contract Documents with the City's Project Manager (noting that the Consultant project inspector does not have the authority to allow deviations from the Contract Documents and shall receive authorization for any deviation from the City's Project Manager);
- J. Providing day-to-day on-the-job observation/inspection of all construction work on the project. Consultant inspectors shall make reasonable efforts to guard the City against defects and deficiencies in the work of the Contractor and to ensure provisions of the contract documents are being fulfilled; prepare daily inspection reports documenting observed construction activities; document the names, classifications, tasks completed, and hours worked of all contractor crew members completing work onsite; take progress photographs (digital) of all work and project locations and log and label in specific logical electronic folders; and assist with all other matters relating

to construction of the project. Daily Inspection Reports shall be submitted to the City's Project Manager on the next business day for review and filing. Consultant to provide example of form to be used to City for review and approval prior to start of construction;

- K. Documenting all Contractor delays, reasons for the delay, length of time for the delay, and phases of the work;
- L. Submitting to the City on a weekly basis, a Weekly Statement of Working Days for the project;
- M. Attending weekly construction progress meetings with the Contractor, Inspector, Construction Manager, and City Project Manager. Progress meetings may be held at the site or virtually, subject to the City Project Manager's prior approval.
- N. Verifying layout of work prior to the beginning of the permanent work;
- O. Measuring and tabulating contract quantities, reviewing the Contractor's invoices, verifying completed work, approving all quantities, and assisting with meetings with the Contractor to resolve any differences in percent complete;
- P. Obtaining and reviewing the Contractor's daily reports;
- Q. Reviewing material test reports to substantiate contract compliance;
- R. Coordinating and monitoring Contractor's operations with subcontractor trades, suppliers, special inspectors/lab testing technicians, utility companies, neighboring residents and other affected parties as needed;
- S. Coordinating/ensuring utilities are shut off and abatement needs are identified prior to demolition of existing infrastructure;
- T. Monitoring extra work and providing supporting documentation on the personnel and equipment that is involved with any extra work performed by the Contractor. Determining whether the work of the Contractor is being performed in accordance with the requirements of the contract documents and endeavoring to guard the City against defects and deficiencies in such work. Extra work personnel and equipment shall be documented separately from contract work and included in the Daily Inspection Reports submitted to the City. It shall be clear in this documentation which equipment and personnel (name and title) worked on extra work or disputed work versus contract work and for what durations.

- U. Monitoring and enforcing Contractor's compliance with BMPs;
- V. Monitoring safety and health requirements and enforcing applicable regulations and contract provisions for the protection of the public and project personnel;
- W. Performing project oversight for the monitoring of damage to existing infrastructure and replacement of infrastructure to City standards;
- X. Documenting all Contractor delays, reasons for delay, length of time for delay, and phases of work;
- Y. Documenting changes in the field to compare to the Contractor's record drawings;
- Z. Recommending courses of action when the Contractor's or subcontractor's performance is unsatisfactory and assisting in carrying out the necessary corrective actions;
- AA. Completing incident (accident) reports;
- BB. Confirming on a monthly basis that the Contractor is maintaining up-to-date marked up prints of construction drawings and documents showing all field changes and as-built conditions;
- CC. At the completion of the work, reviewing the Contractor's redline as-builts to ensure all field changes and as-built conditions are identified;
- DD. Incorporating approved changes to the plans, specifications, and contract documents as they occur and ensuring that the red-line set for the as-built is maintained on a regular basis;
- EE. Preparing status reports for project close-out and all collecting documents as a closeout file;
- FF. Conducting project walk-through(s) and preparing a list of items for correction (punch list);
- GG. Performing a final project inspection;
- HH. Performing warranty walks, approximately one (1) year from the City Council acceptance of the project;
- II. Performing and/or assisting with all other related duties as required;

JJ. Possessing a vehicle with auto insurance a valid California driver's license, and a mobile phone for immediate contact by the City; and

KK. Performing inspections during Normal Contractor Work Hours, Monday through Friday, 7:30 a.m. to 4:30 p.m., excluding holidays.

**EXHIBIT B
APPROVED FEE SCHEDULE**

Professional and special inspection services are subject to the contractor's schedule, sequencing, and quality of work. Below is a fee estimate and sample resources allocation matrix for the Project.

FAITH GROUP, LLC - FINAL FEE ESTIMATE					
Phase	Phase Name	Total Fee			
Phase #1 and 2	Inspection Services	\$ 159,680.00			
HOURLY RATES					
Name	Title	Hours	Weeks	Hourly Rate	Total
Roy Ener, PSP	Inspector	40	16	\$ 249.50	\$ 159,680.00
ESTIMATED EXPENSES					
Total Expenses		\$ -			
FAITH GROUP, LLC - TOTAL FEES & EXPENSES					
Total		\$ 159,680.00			

EXHIBIT C TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute “public works” as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code (“Chapter 1”). Further, Contractor acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations (“DIR”) implementing such statutes. Therefore, as to those Services that are “public works”, Contractor shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Contractor shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Contractor shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Contractor and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Contractor or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Contractor shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Contractor’s Services are subject to compliance monitoring and enforcement by DIR. Contractor shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.

6. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to City, forfeit \$200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

7. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

8. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Contractor shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Contractor and Subcontractors shall not be debarred or suspended throughout the duration of this Contract pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Contractor or any subcontractor becomes debarred or suspended during the duration of the project, the Contractor shall immediately notify City.

10. Contractor acknowledges that eight hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to City, forfeit \$25.00 for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

“I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

12. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor’s compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor’s compliance, including without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent permitted by law, Contractor shall indemnify, hold harmless and defend (at Contractor’s expense with counsel reasonably acceptable to City) City, its officials, officers, employees, agents and independent contractors serving in the role of City officials, and volunteers from and against any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all consequential damages, attorneys’ fees, and other related costs and expenses. All duties of Contractor under this Section shall survive the termination of the Agreement.

RESOLUTION NO. 23-0145

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING AN ON-CALL CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES AGREEMENT BETWEEN THE CITY OF MANHATTAN BEACH AND FAITH GROUP, LLC FOR THE CITYWIDE SECURITY CAMERAS PROJECT – PHASE 3

THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council hereby approves the Agreement between the City of Manhattan Beach and Faith Group, LLC for the Citywide Security Cameras Project – Phase 3 in the amount of \$100,000 for a two-year term.

SECTION 2. The Council hereby directs the City Manager, and/or his or her designee, to execute the Agreement on behalf of the City.

SECTION 3. The City Clerk shall certify to the passage and adoption of this resolution.

ADOPTED on December 5, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES AGREEMENT

This Inspection Services Agreement (“Agreement”) is between the City of Manhattan Beach, a California municipal corporation (“City”) and Faith Group, LLC, a limited partnership (“Consultant”). The date this Agreement is executed by the City Manager shall be the date this Agreement is effective (“Effective Date”). City and Consultant are sometimes referred to herein as the “Parties”, and individually as a “Party”.

RECITALS

A. City issued Request for Proposals and Qualifications No. E1286-23S on October 2, 2024, titled “Professional Construction Management and Inspection Services for Citywide Security Cameras Installation”. Consultant submitted a proposal dated October 23, 2024 in response to the RFP and RFQ.

B. City desires to use the services of Consultant as an independent contractor to provide the on-call inspection and construction management services described in the RFP and RFQ.

C. Consultant represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

D. City desires to retain Consultant as an independent contractor and Consultant desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

1. Consultant’s Services.

A. Scope of Services. Consultant shall perform the services described in the Scope of Services (the “Services”) for inspection and construction management services for the Citywide Security Cameras Installation Project – Phase 3, attached as **Exhibit A**. City may request, in writing, changes in the Scope of Services to be performed. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

B. Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the “City Representative”). For the purposes of this Agreement, the Consultant Representative shall be Ryan Walsh, Principal/Director of Engineering (the “Consultant Representative”). The Consultant Representative shall directly manage Consultant’s Services under this Agreement. Consultant shall not change the Consultant Representative without City’s prior written consent.

C. On-Call Services. Consultant acknowledges that (i) this Agreement is for on-call services; (ii) City is under no obligation to assign any Services to Consultant pursuant to this Agreement; and (iii) any assignments to Consultant pursuant this Agreement may not include all of the Services listed in the Scope of Services.

D. Assignment of Task. Assignments will be made via Task Order. Prior to issuing a Task Order, City will request a project specific proposal from Consultant. If City accepts the proposal City will issue the Task Order, assigning the task to Consultant. Consultant shall not commence performance of work or services until issued a Task Order by City.

E. Time for Performance. Consultant shall commence the Services upon issuance of a Task Order pursuant to paragraph D of this Section 1. Consultant shall perform all Services by the deadline established by the Task Order or, if no deadline is established, with reasonable diligence

F. Standard of Performance. Consultant shall perform all Services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to City.

G. Personnel. Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such Services.

H. Compliance with Laws. Consultant shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and requirements.

I. Permits and Licenses. Consultant shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of Services under this Agreement, including a business license.

J. Prevailing Wages. This Agreement calls for services that, in whole or in part, constitute “public works” as defined in the California Labor Code. Therefore, as to those services that are “public works”, Consultant shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in **Exhibit C** hereto.

2. Term of Agreement. The term of this Agreement shall be from the Effective Date through June 30, 2026, unless sooner terminated as provided in Section 12 of this Agreement or extended. The City Manager or his/her designee may extend the term of the Agreement in writing for up to two additional one-year terms or such other term not to exceed two years from the date of termination, pursuant to the same terms and conditions of this Agreement. If not renewed prior to the termination date, this Agreement may continue on a month-to-month basis under the same terms and conditions for a maximum period not to exceed six months or until renewed, terminated or awarded to a new consultant, whichever is less.

3. Compensation.

A. Compensation. As full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the Approved Fee Schedule

attached hereto as **Exhibit B**. In no event shall Consultant be paid more than \$100,000 (the “Maximum Compensation”) for such Services, or such lesser amount as may be specified in the approved Task Order(s) issued pursuant to paragraph D of Section 1 (the “Maximum Compensation”). The City Manager may authorize cumulative increases for additional work up to twenty percent (20%) of the Agreement. Any additional work in excess of this amount shall be approved by the City Council.

B. Expenses. City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit B**.

C. Unauthorized Services and Expenses. City will not pay for any services not specified in the Scope of Services, or reimburse for any expenses not set forth in **Exhibit B**, unless the City Council or the City Manager, if within his or her authority, and the Consultant Representative authorize such services or expenses in writing prior to Consultant’s performance of those services or incurrence of additional expenses. Any additional services authorized by the City Council, or (where authorized) the City Manager shall be compensated at the rates set forth in **Exhibit B**, or, if not specified, at a rate mutually agreed to by the Parties. Any additional expense authorized by the City Council or (where authorized) the City Manager shall be reimbursed in the amounts authorized by the City Council or City Manager. City shall make payment for additional services and expenses in accordance with Section 4 of this Agreement.

4. **Method of Payment.**

A. Invoices. Consultant shall submit to City an invoice, on a monthly basis, for the Services performed pursuant to this Agreement. Invoices must be submitted to Eduardo Pech, Project Manager at epech@manhattanbeach.gov. Each invoice shall itemize the Services rendered during the billing period, hourly rates charged, if applicable, and the amount due. City shall review each invoice and notify Consultant in writing within ten Business days of receipt of any disputed invoice amounts.

B. Payment. City shall pay all undisputed invoice amounts within 30 calendar days after receipt up to the Maximum Compensation set forth in Section 3 of this Agreement. City does not pay interest on past due amounts. City shall not withhold federal payroll, state payroll or other taxes, or other similar deductions, from payments made to Consultant. Notwithstanding the preceding sentence, if Consultant is a nonresident of California, City will withhold the amount required by the Franchise Tax Board pursuant to Revenue and Taxation Code Section 18662 and applicable regulations.

C. Audit of Records. Consultant shall make all records, invoices, time cards, cost control sheets and other records maintained by Consultant in connection with this Agreement available during Consultant’s regular working hours to City for review and audit by City.

5. **Independent Contractor**. Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt,

obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City.

6. Information and Documents.

A. Consultant covenants that all data, reports, documents, surveys, studies, drawings, plans, maps, models, photographs, discussion, or other information (collectively "Data and Documents") developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Consultant without prior written authorization by City. City shall grant such authorization if applicable law requires disclosure. Consultant, its officers, employees, agents, or subcontractors shall not without written authorization from the City Manager or unless requested in writing by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary," provided Consultant gives City notice of such court order or subpoena.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City may, but has no obligation to, represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct or rewrite the response.

C. All Data and Documents required to be furnished to City in connection with this Agreement shall become City's property, and City may use all or any portion of the Data submitted by Consultant as City deems appropriate. Upon completion of, or in the event of termination or suspension of this Agreement, all original Data and Documents, including computer files containing data generated for the Services, notes, and other documents prepared in the course of providing the Services shall become City's sole property and may be used, reused or otherwise disposed of by City without Consultant's permission. Consultant may take and retain copies of the written products as desired, but the written products shall not be the subject of a copyright application by Consultant.

D. Consultant's covenants under this Section shall survive the expiration or termination of this Agreement.

7. Conflicts of Interest. Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the

Political Reform Act (Gov. Code § 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar Services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the City Representative's prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

8. Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnities.

1) To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2).

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. No Design Services. Contractor acknowledges that the Services to be provided pursuant to this Agreement do not require the services of a "design professional," as the term is defined in California Civil Code Section 2782.8(c), and that therefore the provisions of California Civil Code Section 2782.8 do not apply to this Agreement.

E. Survival of Terms. Consultant's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

9. Insurance.

A. Minimum Scope and Limits of Insurance. Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so

that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of \$2,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Section.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required, but Consultant shall execute a declaration that it has no employees.

4) Professional Liability/Errors and Omissions Insurance with minimum limits of \$2,000,000.00 per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Section shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Section.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City, and its elected and appointed officials, officers, employees, agents and volunteers as additional insureds. This provision shall also apply to any excess/umbrella liability policies.

D. Primary and Non-Contributing. The insurance policies required under this Section shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its elected and appointed officials, officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

E. Consultant's Waiver of Subrogation. The insurance policies required under this Section shall not prohibit Consultant and Consultant's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Section during the term

of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Section is canceled or reduced in coverage or limits, Consultant shall, within two Business Days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Section in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Section, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Consultant shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with City's Risk Manager. Consultant shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under Section 8 of this Agreement.

K. Broader Coverage/Higher Limits. If Consultant maintains broader coverage and/or higher limits than the minimums required above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

L. Subcontractor Insurance Requirements. Consultant shall require each of its subcontractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section.

10. Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent Data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

11. Records and Inspections. Consultant shall maintain complete and accurate records with respect to time, costs, expenses, receipts, correspondence, and other such information required by City that relate to the performance of the Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to City, its designees and representatives at reasonable times, and shall allow City to examine and audit the books and records, to make transcripts therefrom as necessary, and to inspect all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three years after receipt of final payment.

12. Termination of Agreement.

A. Right to Terminate. City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Consultant at least five calendar days before the termination is to be effective. Consultant may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least 60 calendar days before the termination is to be effective.

B. Obligations upon Termination. Consultant shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure of performance by Consultant, City shall pay Consultant based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the Services required by this Agreement. Consultant shall have no other claim against City by reason of such termination, including any claim for compensation.

13. Force Majeure. Consultant shall not be liable for any failure to perform its obligations under this Agreement if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to acts of God, embargoes, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Consultant's reasonable control and not due to any act by Consultant.

14. Default.

A. Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms

of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default.

B. In addition to the right to terminate pursuant to Section 12, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City shall serve Consultant with written notice of the default. Consultant shall have ten calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

15. Notices. Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Consultant’s and City’s regular business hours, or (c) three Business Days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

TO CITY:

City of Manhattan Beach
Public Works Department
Attn: Eduardo Pech, P.E.
1400 Highland Avenue
Manhattan Beach, California 90266

TO CONSULTANT:

Faith Group, LLC
Attn: Ryan Walsh, P.E.
3101 S. Hanley Road
St. Louis, Missouri 63143

COPY TO CITY ATTORNEY:

City of Manhattan Beach
Attn: City Attorney
1400 Highland Avenue
Manhattan Beach, CA 90266

16. Non-Discrimination and Equal Employment Opportunity. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information or sexual orientation.

17. Prohibition of Assignment and Delegation. Consultant shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City's prior written consent. City's consent to an assignment of rights under this Agreement shall not release Consultant from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this Section shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

18. No Third Party Beneficiaries Intended. This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

19. Waiver. No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement shall be (1) effective unless it is in writing and signed by the Party making the waiver, (2) deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy, or (3) deemed to constitute a continuing waiver unless the writing expressly so states.

20. Final Payment Acceptance Constitutes Release. The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's work or services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, subcontractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the work prepared by Consultant, its employees, subcontractors and agents.

21. Corrections. In addition to the above indemnification obligations, Consultant shall correct, at its expense, all errors in the work which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction in a reasonably timely manner, such correction may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction from any retention amount held by City or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction.

22. Non-Appropriation of Funds. Payments to be made to Consultant by City for services performed within the current fiscal year are within the current fiscal budget and

within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's services beyond the current fiscal year, this Agreement shall cover payment for Consultant's services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

23. Exhibits. Exhibits A, B, and C constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, or between a provision of this Agreement and a provision of Consultant's proposal, the provisions of this Agreement shall control.

24. Entire Agreement and Modification of Agreement. This Agreement and all exhibits referred to in this Agreement constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other prior or contemporaneous oral or written understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by both Parties.

25. Headings. The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

26. Word Usage. Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

27. Time of the Essence. Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

28. Business Days. "Business days" means days Manhattan Beach City Hall is open for business.

29. Governing Law and Choice of Forum. This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of California, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a superior court with geographic jurisdiction over the City of Manhattan Beach.

30. Attorneys' Fees. In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall

be entitled to recover all attorneys' fees, experts' fees, and other costs actually incurred in connection with such litigation or other proceeding, in addition to all other relief to which that Party may be entitled.

31. Severability. If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable for any reason, the validity of and enforceability of the remaining provisions of this Agreement shall not be affected and continue in full force and effect.

32. Counterparts. This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument.

33. Corporate Authority. Each person executing this Agreement on behalf of his or her Party warrants that he or she is duly authorized to execute this Agreement on behalf of that Party and that by such execution, that Party is formally bound to the provisions of this Agreement.

[SIGNATURE PAGE FOLLOWS]

The Parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:

City of Manhattan Beach,
a California municipal corporation

Consultant:

Faith Group, LLC,
a limited liability company

By: _____

Name: Bruce Moe
Title: City Manager

By:  _____

DocuSigned by:
F0F23ADB23114B5
Name: Ryan Walsh, P.E. 11/27/2023
Title: Principal, Director of Engineering

ATTEST:

By: _____

Name: Liza Tamura
Title: City Clerk

APPROVED AS TO FORM:

By: _____

Name: Quinn M. Barrow
Title: City Attorney

APPROVED AS TO FISCAL IMPACT:

By: _____

Name: Steve S. Charelian
Title: Finance Director

APPROVED AS TO CONTENT:

By: _____

Name: Erick Lee
Title: Public Works Director

EXHIBIT A SCOPE OF SERVICES

The Scope of Services may include, but is not limited to, the following tasks:

The Consultant shall assist the City with the inspection, special inspections, and/or construction management of the Citywide Security Cameras Project – Phase 3 (Project). At minimum, the project includes the installation of a Video Surveillance System (VSS) over new cable infrastructure connected to the existing City network at three municipal sites (Manhattan Heights Art and Community Center, Joslyn Community Center, and Live Oak Park). The work may include additional sites, and installation of an Electronic Access Control System (EACS) and Security Intercom System (SIS).

The City seeks full-time construction inspection for the project, with the flexibility to perform part-time inspection if the construction only requires part-time inspection during the days with low-level construction activities on the Citywide Security Cameras Project – Phase 3 (Project). Inspection shall be performed daily and the inspector should be on-site on a full-time basis with the flexibility to be part-time as needed for the work days.

The Consultant's services maybe required from start to completion of the Citywide Security Cameras Project – Phase 3 (Project) to ensure the Contractor performs all the necessary work as described in the contract documents, as well as other tasks identified herein. All work will be performed to the highest professional standards and will reflect the thoroughness, attention to detail and professional knowledge expected in overview of all the associated construction phases.

Consultant project inspector will be required during preconstruction, construction, and closeout for the Project. The City expects the Consultant project inspector to be on-site for the entire duration of the construction and closeout of the Project. Construction duration of the Project may vary, and will be specified at the time of issuance of the Task Order Solicitation. The Consultant shall be responsible for construction management and inspection, which includes but is not limited to the overall contract compliance, contract change order review, schedule changes, construction inspections, and quantity calculations and verification. The City will have a project manager (City Project Manager) assigned to the project to be available for the project duration.

The typical workday includes all hours worked by the construction Contractor. The construction Contractor's operations may be restricted to specific hours during the week, which shall become the normal workday for Consultant personnel. The City Project Manager

shall have the authority to increase, decrease, or eliminate Consultant personnel work hours' dependent on the schedule and requirements of the construction Contractor.

The tasks listed below are not intended to comprise a complete list, nor are they the only tasks required for the Project. The consultant shall submit a comprehensive and detailed scope of work required to complete the Task Order Solicitation. Consultant duties and responsibilities may include, but are not limited to, the following services:

Project Inspection Tasks

- A. Reviewing the contract documents, including plans, specifications, and quantities prior to the preconstruction meeting;
- B. Attending the Preconstruction Meeting;
- C. Documenting, with digital images and video, the preconstruction existing conditions of the work areas and project areas;
- D. Checking line, size, elevation, and location of improvements;
- E. Establishing effective communication with the Contractor and City staff;
- F. Providing full-time inspection services to ensure compliance with the Contract Documents and other requirements, such as, but not limited to Cal/OSHA Standards, contract change orders, permits, California Building Code and ASTM standards;
- G. Performing project oversight for the monitoring of damage to infrastructure;
- H. Evaluating the Contractor's daily performance and addressing deficiencies as they occur;
- I. Coordinating any field issues that require deviations from the Contract Documents with the City's Project Manager (noting that the Consultant project inspector does not have the authority to allow deviations from the Contract Documents and shall receive authorization for any deviation from the City's Project Manager);
- J. Providing day-to-day on-the-job observation/inspection of all construction work on the project. Consultant inspectors shall make reasonable efforts to guard the City against defects and deficiencies in the work of the Contractor and to ensure provisions of the contract documents are being fulfilled; prepare daily inspection reports documenting observed construction activities; document the names, classifications,

tasks completed, and hours worked of all contractor crew members completing work onsite; take progress photographs (digital) of all work and project locations and log and label in specific logical electronic folders; and assist with all other matters relating to construction of the project. Daily Inspection Reports shall be submitted to the City's Project Manager on the next business day for review and filing. Consultant to provide example of form to be used to City for review and approval prior to start of construction;

- K. Documenting all Contractor delays, reasons for the delay, length of time for the delay, and phases of the work;
- L. Submitting to the City on a weekly basis, a Weekly Statement of Working Days for the project;
- M. Attending weekly construction progress meetings with the Contractor, Inspector, Construction Manager, and City Project Manager. Progress meetings may be held at the site or virtually, subject to the City Project Manager's prior approval.
- N. Verifying layout of work prior to the beginning of the permanent work;
- O. Measuring and tabulating contract quantities, reviewing the Contractor's invoices, verifying completed work, approving all quantities, and assisting with meetings with the Contractor to resolve any differences in percent complete;
- P. Obtaining and reviewing the Contractor's daily reports;
- Q. Reviewing material test reports to substantiate contract compliance;
- R. Coordinating and monitoring Contractor's operations with subcontractor trades, suppliers, special inspectors/lab testing technicians, utility companies, neighboring residents and other affected parties as needed;
- S. Coordinating/ensuring utilities are shut off and abatement needs are identified prior to demolition of existing infrastructure;
- T. Monitoring extra work and providing supporting documentation on the personnel and equipment that is involved with any extra work performed by the Contractor. Determining whether the work of the Contractor is being performed in accordance with the requirements of the contract documents and endeavoring to guard the City against defects and deficiencies in such work. Extra work personnel and equipment shall be documented separately from contract work and included in the Daily Inspection Reports submitted to the City. It shall be clear in this documentation which

equipment and personnel (name and title) worked on extra work or disputed work versus contract work and for what durations.

- U. Monitoring and enforcing Contractor's compliance with BMPs;
- V. Monitoring safety and health requirements and enforcing applicable regulations and contract provisions for the protection of the public and project personnel;
- W. Performing project oversight for the monitoring of damage to existing infrastructure and replacement of infrastructure to City standards;
- X. Documenting all Contractor delays, reasons for delay, length of time for delay, and phases of work;
- Y. Documenting changes in the field to compare to the Contractor's record drawings;
- Z. Recommending courses of action when the Contractor's or subcontractor's performance is unsatisfactory and assisting in carrying out the necessary corrective actions;
- AA. Completing incident (accident) reports;
- BB. Confirming on a monthly basis that the Contractor is maintaining up-to-date marked up prints of construction drawings and documents showing all field changes and as-built conditions;
- CC. At the completion of the work, reviewing the Contractor's redline as-builts to ensure all field changes and as-built conditions are identified;
- DD. Incorporating approved changes to the plans, specifications, and contract documents as they occur and ensuring that the red-line set for the as-built is maintained on a regular basis;
- EE. Preparing status reports for project close-out and all collecting documents as a closeout file;
- FF. Conducting project walk-through(s) and preparing a list of items for correction (punch list);
- GG. Performing a final project inspection;
- HH. Performing warranty walks, approximately one (1) year from the City Council acceptance of the project;

- II. Performing and/or assisting with all other related duties as required;
- JJ. Possessing a vehicle with auto insurance a valid California driver's license, and a mobile phone for immediate contact by the City; and
- KK. Performing inspections during Normal Contractor Work Hours, Monday through Friday, 7:30 a.m. to 4:30 p.m., excluding holidays.

Construction Management Tasks

- A. Reviewing the contract documents, including plans, specifications, and quantities prior to the preconstruction meeting;
- B. Attending the Preconstruction Meeting; documenting the information discussed during that meeting in a set of draft meeting minutes transmitted to City staff within five working days and finalized upon receipt of City staff comments;
- C. Providing administrative, management, and related services necessary to coordinate the work of the General Contractor and all subcontractors to facilitate timely completion of the project in accordance with the City objectives.
- D. Assisting the Contractor and City with public notifications, public relations, and public outreach regarding the Project;
- E. Review work progress as compared to the Project Baseline Schedule and inform the City Project Manager of schedule slippage;
- F. Monitoring and reporting on the status of project and project construction budget on a monthly basis, indicating the actual costs for completed activities and work in progress, and indicating estimates for uncompleted work;
- G. Identifying variances between actual and budgeted or estimated costs, and advising the City whenever it appears that the construction budget has or will be exceeded for the project as a whole or any project component;
- H. Maintaining cost accounting records on actual work performed under unit costs or a Schedule of Values (in the event that force account procedures are used or other work monitoring requires accounting records);
- I. Recommending courses of action when the Contractor's or subcontractor's performance is unsatisfactory and assist in carrying out the necessary corrective actions;

- J. Maintaining contiguous 24-hour telephone accessibility of the construction activity for emergency use;
- K. Assisting the Contractor in obtaining all building, grading, and other permits necessary for the project;
- L. Ensuring that the following prevailing wage requirements are met:
 - a. Contractor posts a list of prevailing wages in the area for the work to be performed on the project, as required pursuant to Labor Code 1770, in a prominent place at the project site;
 - b. Reviewing all certified payrolls for conformance to the prevailing wage rates;
- M. Providing, managing, coordinating, and ensuring timely completion/approvals in response to all RFIs, shop drawings, product data samples, Change Notices, Intent to File Change notice, and Construction Change Orders (CCOs) review, negotiations and issuance of Change order to the Contractor;
- N. Following the established City procedures in processing Contract Change Orders (CCO), which are:
 - a. Reviewing requests for change orders received from the Contractor;
 - b. Recommending necessary or desirable project changes to the City;
 - c. Assisting the City in CCO negotiations;
 - d. Submitting recommendations to the City relative to change order requests; and
 - e. Preparing the CCO(s) and obtaining the Contractor's signature.
- O. Creating a change order log, which tracks individual CCO costs and cost to-date and includes categorization of all CCO items into one of the following four categories: (1) change in scope; (2) unanticipated conditions; (3) emergency response; or (4) design error or omission;
- P. Preparing independent cost estimates for comparison and review by the City for all Contractor-submitted change notices/orders;
- Q. Coordinating shop drawings and RFI review and response with the Design Engineer and City Project Manager;

- R. Reviewing Contractor pay requests and preparing the necessary documentation for submittal and approval by the City.
- S. Tracking all invoices and progress payments in accordance with City policies and Procedures;
- T. Maintaining the project site record copies of the following:
 - a. Plans, specifications, and contract documents with all changes and modifications;
 - b. Permits;
 - c. Addenda, Change order(s), shop drawings, product data, submittals and samples;
 - d. Progress payments, inventories, and applicable codes;
 - e. Contractor's reports, correspondence, certified payroll records, and accident reports;
 - f. Survey and layout data and certifications, photographs of as-built locations and depths; and
 - g. List of addresses, telephone and license numbers of General Contractor, all subcontractors, material suppliers, and utility agencies.
- U. Coordinating close-out of the project, obtaining the necessary operation manuals, warranty, guarantees, and other applicable necessary information and providing all documentation in a well-organized manner in electronic and hard copy formats (binders, folders, flash drives, etc.);
- V. Obtaining releases and warranty bonds from the General Contractor and sub-contractors, and providing all documentation in a well-organized manner in electronic and hard copy formats (binders, folders, flash drives, etc.);
- W. Delivering all keys, manuals, and record drawings to the City, coordinating all final inspections, and providing all documentation in a well-organized manner in electronic and hard copy formats (binders, folders, flash drives, etc.);
- X. Preparing status reports for project close-out;
- Y. Presenting City with a complete project close-out file;
- Z. Performing such other project-related duties as may be required by the City; and
- AA. Resolving all warranty issues so the City can release the Warranty Bond.

**EXHIBIT B
APPROVED FEE SCHEDULE**

HOURLY RATE SCHEDULE

Position	Hourly Rates
Project Manager	\$ 243.16
Inspector*	\$ 249.50
Construction Manager	\$ 272.25

NOTE: All rates listed above are effective to October 25, 2024.

*Prevailing wages includes Department of Industrial Relations' adjustment for construction projects advertised for bids after September 1, 2022 and hourly rate increase starting July 1, 2023.

EXHIBIT C TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute “public works” as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code (“Chapter 1”). Further, Contractor acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations (“DIR”) implementing such statutes. Therefore, as to those Services that are “public works”, Contractor shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Contractor shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Contractor shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Contractor and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Contractor or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Contractor shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Contractor’s Services are subject to compliance monitoring and enforcement by DIR. Contractor shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.

6. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to City, forfeit \$200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

7. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

8. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Contractor shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Contractor and Subcontractors shall not be debarred or suspended throughout the duration of this Contract pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Contractor or any subcontractor becomes debarred or suspended during the duration of the project, the Contractor shall immediately notify City.

10. Contractor acknowledges that eight hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to City, forfeit \$25.00 for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

“I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

12. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor’s compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor’s compliance, including without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent permitted by law, Contractor shall indemnify, hold harmless and defend (at Contractor’s expense with counsel reasonably acceptable to City) City, its officials, officers, employees, agents and independent contractors serving in the role of City officials, and volunteers from and against any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all consequential damages, attorneys’ fees, and other related costs and expenses. All duties of Contractor under this Section shall survive the termination of the Agreement.

ATTACHMENT 5

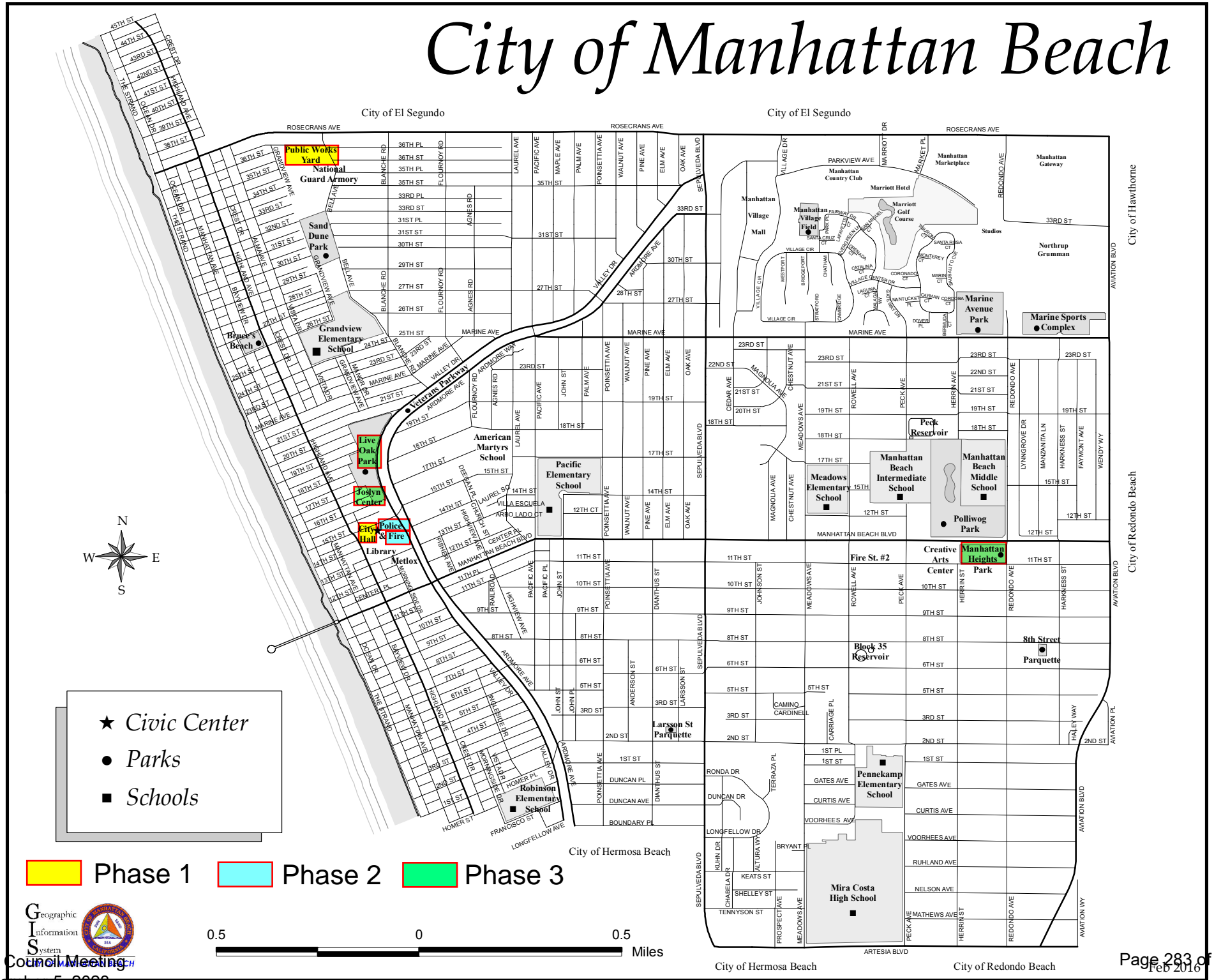
Citywide Security Cameras Project

Budget and Expenditures

BUDGET	
City Facility Security Camera Project (BL21001)	\$970,000
TOTAL BUDGET	\$970,000

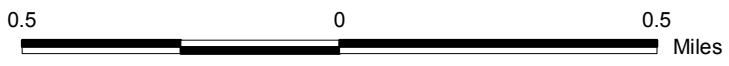
EXPENDITURES	
Design Contract: Triad Consulting & System Design Group, LLC (Original Contract)	\$41,000
Design Contract: Triad Consulting & System Design Group, LLC (Amendment #1)	\$45,435
Design Contract: Triad Consulting & System Design Group, LLC (Amendment #2)	\$49,930
Construction Agreement: BlueViolet Networks	\$523,821
Bid Advertisement: Beach Reporter Legal Ads	\$172
Professional Inspection Service Agreement for Phase 1 and 2: Faith Group, Inc.	\$159,680
TOTAL EXPENDITURES	\$820,038
BALANCE	\$149,962

City of Manhattan Beach



- ★ Civic Center
- Parks
- Schools

- Phase 1
- Phase 2
- Phase 3





CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Erick Lee, Public Works Director
Katherine Doherty, City Engineer
Jeff Fijalka, Senior Civil Engineer

SUBJECT:

Consideration of Introducing an Ordinance Amending Section 7.28.100 of the Manhattan Beach Municipal Code (Municipal Code) Regarding the Responsibility of Property Owners within a Utility Undergrounding District, and Adoption of a Determination of Exemption Pursuant to 15302(d) and 15303(d) of the State CEQA Guidelines (Public Works Director Lee).

INTRODUCE ORDINANCE NO. 23-0013

RECOMMENDATION:

Staff recommends that City Council adopt Ordinance No. 23-0013:

- a) Amending the existing provisions of Section 7.28.100 of the Municipal Code regarding the responsibility of property owners within an utility undergrounding district to provide required underground facilities on their property; and
- b) Making a determination of exemption pursuant to California Environmental Quality Act (CEQA).

FISCAL IMPLICATIONS:

There are no direct fiscal implications associated with the proposed code modifications. However, if the proposed modifications are adopted, whenever the City must use City funds to perform work on behalf of a property owner in a utility undergrounding district, the payback period could be extended from one year to as many as twenty years. Per the proposed code modifications, the City will earn interest on the outstanding debt at a rate of 6% per year.

BACKGROUND:

During the first phase of construction of an Underground Utility Assessment District, mainline

conduits are placed in trenches within the right-of-way, and individual service conduits are extended to the back of curb in front of each property in accordance with the utility design drawings prepared by the various utility companies. Upon completion of the work within the right-of-way, property owners are instructed by the City to hire a contractor to connect to the stubbed underground service conduits and extend them to their homes. Additionally, each property owner is informed of their responsibility to upgrade their electrical panel as necessary to prepare their home to receive underground utility services. According to Section 7.28.100 of the Municipal Code, when a property owner fails to complete the necessary private conversion work by the deadline established by the City, the City shall solicit competitive bids for any outstanding private conversion work and then award a contract to complete the work.

Upon completion of the work, the Municipal Code requires that the City prepare a report summarizing the work performed and the cost of said work. A hearing must then be held before City Council, at which time Council shall consider the report and any protests, and then confirm or reject the proposed assessment. If the assessment is not paid within five days, it shall become a lien on the property to be collected with the next property tax bill, under the same terms as the ad valorem property taxes.

DISCUSSION:

Municipal Code Amendment

If adopted, the proposed Ordinance No. 23-0013 will modify the Municipal Code to allow the City to collect the funds expended on private conversions over a period of up to twenty years, as opposed to requiring the City to collect the entire debt at one time. The outstanding debt will accrue interest at a rate of 6%.

According to the terms of proposed code modification, the City Manager may authorize private conversion costs to be re-paid in annual installments if a property owner is able to demonstrate a financial hardship. Property owners electing for their private conversion assessment to be collected in annual installments will need to execute an agreement with the City securing their obligation to pay the assessment according to the agreed terms.

District 14

At the October 3, 2023 City Council Meeting, Council awarded a contract to Asplundh Construction for additional work within Underground Utility Assessment Districts 19-12 and 19-14 (Districts 12 and 14), including five private conversions in District 14. At least two of the owners of the properties requiring private conversion have indicated a financial hardship, limiting their ability to pay the full cost of the utility conversion work at this time.

If adopted, the Code modifications included in Ordinance No. 23-0013 will authorize the City to enter into agreements with these property owners to allow them to repay their utility conversion costs over a period of multiple years.

PUBLIC OUTREACH:

A notice was added to the Underground Utility Assessment District's website to inform the public of the proposed modifications to the Municipal Code. If the modifications are approved, the *UUAD Fact Booklet*, a guidance document prepared by the City and posted on the program webpage, will be updated to reflect the changes.

ENVIRONMENTAL REVIEW:

The City reviewed the proposed activities for compliance with the California Environmental Quality Act (CEQA) and determined that undergrounding overhead utility systems qualify for a Categorical Exemption pursuant to Sections 15302(d) and 15303(d) (Conversion of overhead electric utility distribution system facilities to underground, and conversion of existing small structures to small new equipment and facilities in small structures) of the State CEQA Guidelines. Thus, no further environmental review is necessary .

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Ordinance No. 23-0013
2. Ordinance No. 23-0013 (Tracked Changes Version)

ORDINANCE NO. 23-_____

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH AMENDING MANHATTAN BEACH MUNICIPAL CODE SECTION 7.28.100 TO AMEND THE EXISTING PROVISIONS THEREOF REGARDING THE RESPONSIBILITY OF PROPERTY OWNERS WITHIN AN UNDERGROUNDING UTILITY DISTRICT TO PROVIDE REQUIRED UNDERGROUND FACILITIES ON THEIR PROPERTY, AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council hereby amends Manhattan Beach Municipal Code Section 7.28.100 to read as follows:

“7.28.100 - Responsibility of property owner.

A. Every person owning, operating, leasing, occupying or renting a building or structure within a District shall construct and provide that portion of the service connection on his property between the facilities referred to in [Section 7.28.090](#) hereof and the termination facility on or within said building or structure being served, all in accordance with the applicable rules, regulations and tariffs of the respective utility or utilities on file with the Commission. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to [Section 7.28.040](#) hereof, the City Engineer shall give a notice in writing to the record owner of the premises at the address shown on the last equalized assessment roll, or the supplemental roll, whichever is more current, and to the address of the premises, if different, to provide the required underground facilities within thirty (30) days after the receipt of such notice.

B. The notice required by Paragraph A may be given either by personal service or by mail by depositing the notice in the United States mail in a sealed envelope with postage prepaid. If notice is given by mail, such notice shall be deemed to have been received by the person to whom it has been sent within forty-eight (48) hours after the mailing thereof. If notice is given by mail, the City Engineer shall, within forty-eight (48) hours after the mailing thereof, cause a copy thereof, printed on paper not less than eight inches (8”) by ten inches (10”) in size, to be posted in a conspicuous place on said premises.

C. The notice required by Paragraph A shall specify what work is required to be done on the premises and shall state that if said work is not completed within thirty (30) days after receipt of such notice, the City Engineer will provide such required underground facilities, or

cause such required underground facilities to be provided by a contractor, and the cost thereof will be assessed against the property and become a lien upon such property.

D. If, upon the expiration of the thirty (30) day period, the required underground facilities have not been provided, the City Engineer shall proceed to do the work or cause a contractor to do the work; provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the City Engineer shall, in lieu of providing the required underground facilities, have the authority to authorize the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to said property. Upon completion of the work by the City Engineer or contractor, the City Engineer shall file a written report with the City Council setting forth the fact that the required underground facilities have been provided and the cost thereof, and identifying the property against which such cost is to be assessed. The Council shall thereupon set a time and place for hearing protests against the assessment of the cost of such work upon such property, which said time shall not be less than fourteen (14) days thereafter.

E. The City Engineer shall immediately give a notice in writing to the record owner of the premises as shown on the last equalized assessment roll, or the supplemental roll, whichever is more current, at the address shown on the roll, and to the address of the premises, if different, of the time and place that the Council will hold a hearing to consider such report and hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment and that if such assessment is not paid within five (5) days after the amount of the assessment is confirmed by the Council at such hearing, that the assessment shall become a lien upon the property against which the assessment is made. Such notice may be given either by personal service or by mail by depositing the notice in the United States mail in a sealed envelope with postage prepaid. If notice is given by mail, the City Engineer shall, within forty-eight (48) hours after the mailing thereof, cause a copy thereof, printed on paper not less than eight inches (8") by ten inches (10") in size, to be posted in a conspicuous place on said premises.

F. Upon the date and hour set for the hearing of protests, the Council shall hear and consider the report and all protests, if any, and then proceed to confirm, confirm as modified, or reject the assessment. The hearing may be continued from time to time.

G. If any assessment is not paid within five (5) days after its confirmation by the Council, the amount of the assessment shall become a lien upon the property against which the assessment is made, and the City Engineer shall provide to the County Assessor and Tax

Collector the amount of said assessment to be added to the next regular bill for ad valorem taxes, and such assessment shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment.

Alternatively, if a property owner demonstrates financial hardship, the City Manager, in his or her sole discretion, may authorize collecting the assessment, together with interest thereon at the rate of six percent (6%) per annum, in up to 20 annual installments. In such case, the City Engineer shall provide the installments to the County Assessor and Tax Collector to be added to the regular bills for ad valorem taxes, and such installments shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment and each installment thereof. Each property owner who elects for the assessment to be collected in annual installments shall execute an agreement with the City, which shall be recorded against the property, and any other document necessary to secure the owner's obligation to pay the assessment in accordance with this Section."

SECTION 3. INTERNAL CONSISTENCY. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 4. CEQA. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections _____.

SECTION 5. SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or their application and, to this end, the provisions of this Ordinance are severable.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect and be in force thirty (30) days after its passage.

SECTION 7. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

ADOPTED on _____, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

ORDINANCE NO. 23-0013

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH AMENDING MANHATTAN BEACH MUNICIPAL CODE SECTION 7.28.100 TO AMEND THE EXISTING PROVISIONS THEREOF REGARDING THE RESPONSIBILITY OF PROPERTY OWNERS WITHIN AN UNDERGROUNDING UTILITY DISTRICT TO PROVIDE REQUIRED UNDERGROUND FACILITIES ON THEIR PROPERTY, AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council hereby amends Manhattan Beach Municipal Code Section 7.28.100 to read as follows:

“7.28.100 - Responsibility of property owner.

A. Every person owning, operating, leasing, occupying or renting a building or structure within a District shall construct and provide that portion of the service connection on his property between the facilities referred to in [Section 7.28.090](#) hereof and the termination facility on or within said building or structure being served, all in accordance with the applicable rules, regulations and tariffs of the respective utility or utilities on file with the Commission. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to [Section 7.28.040](#) hereof, the City Engineer shall give ~~notice in writing to the person in possession of such premises, and~~ a notice in writing to the ~~record~~ owner ~~thereof as of the premises at the address~~ shown on the last equalized assessment roll, ~~or the supplemental roll, whichever is more current, and to the address of the premises, if different,~~ to provide the required underground facilities within ~~ten~~thirty (~~10~~30) days after the receipt of such notice.

B. The notice ~~to provide the~~ required ~~underground facilities~~ by Paragraph A may be given either by personal service or by mail. ~~In case of service by mail on either of such persons, by depositing~~ the notice ~~must be deposited~~ in the United States ~~Mail~~mail in a sealed envelope with postage prepaid, ~~addressed to the person in possession of such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such owner's last known address as the same appears on the last equalized assessment roll, and when no address appears, to General Delivery. City of Manhattan Beach, California.~~ If notice is given by mail, such notice shall

be deemed to have been received by the person to whom it has been sent within forty-eight (48) hours after the mailing thereof. If notice is given by mail ~~to either the owner or occupant of such premises~~, the City Engineer shall, within forty-eight (48) hours after the mailing thereof, cause a copy thereof, printed on ~~a card~~ paper not less than eight ~~(8")~~ inches (8") by ten ~~(10")~~ inches (10") in size, to be posted in a conspicuous place on said premises.

C. The notice ~~given by the City Engineer to provide the~~ required ~~underground facilities by~~ Paragraph A shall ~~particularly~~ specify what work is required to be done on the premises and shall state that if said work is not completed within thirty (30) days after receipt of such notice, the City Engineer will provide such required underground facilities, ~~in which case~~ or cause such required underground facilities to be provided by a contractor, and the cost ~~and expense~~ thereof will be assessed against the property ~~benefited~~ and become a lien upon such property.

D. If, upon the expiration of the thirty (30) day period, the ~~said~~ required underground facilities have not been provided, the City Engineer shall ~~forthwith~~ proceed to do the work or cause a contractor to do the work; provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the City Engineer shall, in lieu of providing the required underground facilities, have the authority to authorize the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to said property. Upon completion of the work by the City Engineer or contractor, the City Engineer shall file a written report with the City Council setting forth the fact that the required underground facilities have been provided and the cost thereof, ~~together with a legal description of~~ and identifying the property against which such cost is to be assessed. The Council shall thereupon ~~fix~~ set a time and place for hearing protests against the assessment of the cost of such work upon such ~~premises~~ property, which said time shall not be less than ~~ten~~ fourteen ~~(10)~~ (14) days thereafter.

E. The City Engineer shall ~~forthwith, upon the time for hearing such protests having been fixed,~~ immediately give a notice in writing to the ~~person in possession of such premises, and a notice in writing thereof to the owner thereof, in the manner hereinabove provided for the giving of the notice to provide the~~ required underground facilities record owner of the premises as shown on the last equalized assessment roll, or the supplemental roll, whichever is more current, at the address shown on the roll, and to the address of the premises, if different, of the time and place that the Council will ~~pass upon~~ hold a hearing

to consider such report and ~~will~~ hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment and that if such assessment is not paid within five (5) days after the amount of the assessment is confirmed by the Council at such hearing, that the assessment shall become a lien upon the property against which the assessment is made. Such notice may be given either by personal service or by mail by depositing the notice in the United States mail in a sealed envelope with postage prepaid. If notice is given by mail, the City Engineer shall, within forty-eight (48) hours after the mailing thereof, cause a copy thereof, printed on paper not less than eight inches (8") by ten inches (10") in size, to be posted in a conspicuous place on said premises.

F. Upon the date and hour set for the hearing of protests, the Council shall hear and consider the report and all protests, if ~~there be~~ any, and then proceed to ~~affirm, modify~~confirm, confirm as modified, or reject the assessment. The hearing may be continued from time to time.

G. If any assessment is not paid within five (5) days after its confirmation by the Council, the amount of the assessment shall become a lien upon the property against which the assessment is made ~~by, and~~ the City Engineer, ~~and the City Engineer is directed shall provide to turn over to~~ the County Assessor and Tax Collector ~~a notice of lien on each of said properties on which the assessment has not been paid, and said Assessor and Tax Collector shall add~~ the amount of said assessment to be added to the next regular bill for ad valorem taxes ~~levied against the premises upon which said assessment was not paid. Said, and such~~ assessment shall be ~~due and payable~~collected at the same time ~~as said property taxes are due and payable, and if not paid when due and payable, shall bear~~ and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment. ¶

Alternatively, if a property owner demonstrates financial hardship, the City Manager, in his or her sole discretion, may authorize collecting the assessment, together with interest thereon at the rate of six percent (6%) per annum, in up to 20 annual installments. In such case, the City Engineer shall provide the installments to the County Assessor and Tax Collector to be added to the regular bills for ad valorem taxes, and such installments shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable

to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment and each installment thereof. Each property owner who elects for the assessment to be collected in annual installments shall execute an agreement with the City, which shall be recorded against the property, and any other document necessary to secure the owner's obligation to pay the assessment in accordance with this Section."

SECTION 3. INTERNAL CONSISTENCY. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 4. CEQA. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections _____.

SECTION 5. SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or their application and, to this end, the provisions of this Ordinance are severable.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect and be in force thirty (30) days after its passage.

SECTION 7. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

ADOPTED on _____, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

Document comparison by Workshare 10.0 on Wednesday, November 8, 2023
10:32:11 AM

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Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
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Moved deletion	
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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	43
Deletions	42
Moved from	3
Moved to	3
Style changes	0
Format changes	0
Total changes	91



CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Erick Lee, Public Works Director
Mike Maestas, Utilities Manager
Erika King, Senior Management Analyst

SUBJECT:

Consideration of Introducing an Ordinance to Establish Applicable Regulations Regarding Water System Cross-Connection Controls (Public Works Director Lee).

INTRODUCE ORDINANCE NO. 23-0011

RECOMMENDATION:

Staff recommends that the City Council Introduce Ordinance No. 23-0011 to add Chapter 7.45 to the Manhattan Beach Municipal Code to establish applicable regulations regarding cross-connection control.

FISCAL IMPLICATIONS:

There are no fiscal implications associated with the recommended action.

BACKGROUND:

Title 17 of the State of California Administrative Code requires that water suppliers implement and administer a cross-connection program to protect drinking water from possible contamination. The code further requires that enforcement authority is granted to ensure federal drinking water rules and regulations are followed.

A cross-connection is any actual or potential connection between the drinking water lines and potential sources of pollution or contamination such as a piping arrangement or equipment that allows the drinking water to come in contact with non-potable liquids, solids, or gases that are hazardous to humans in the event of a backflow.

Backflow is the undesired reverse of the water flow in drinking water distribution lines. This

backward flow of the water can occur when the pressure created by equipment or a system is higher than the water pressure inside the water distribution line (back pressure), or when the pressure in the distribution line drops causing the water to flow backward inside the water distribution system (backsiphonage). Backflow is a problem that many water consumers are unaware of and a problem that every water customer has a responsibility to help prevent.

A state compliant cross-connection program requires that site surveys and inspections on private property be conducted to determine whether or not potential hazards exist requiring backflow preventions devices. Currently there are more than 1,000 devices installed in the City. In addition to the site surveys, annual inspection and testing of backflow devices must be conducted to ensure the devices are in working order. Defective or malfunctioning backflow devices must be repaired immediately.

The City does not currently have an established regulation regarding cross-connection control. Ordinance No. 23-0011 will allow the City to meet the provisions of Title 17 and all other regulations regarding cross-connections that are adopted by the State of California Department of Health Services pursuant to California Water Code Sections 100205, 100275, and 116375(c).

DISCUSSION:

Ordinance No. 23-0011 will protect the City's drinking water supply from contamination that otherwise could occur because of backflow and promote the elimination of existing cross-connections between the customers' water systems and the City's public water system. The ordinance will also provide for the maintenance of a continuing Cross-Connection Control Program and help prevent contamination or pollution of the public water system.

This ordinance will require industrial and commercial properties using potable water for purposes other than domestic uses to protect the potable water system from possible contamination through the installation and maintenance of backflow prevention devices. In addition, the California State Water Board is in its final stages of adopting a revised Crossed Connection Control Policy Handbook which will require public water systems to conduct Hazard Assessments on all properties served to determine the degree of hazard and the level of protection required. Privately owned properties with dual water service, non-continuous flow through private home fire sprinkler systems, or auxiliary water supplies that may pose a threat to the safety of the public water system will be required to install and maintain backflow protection devices. Current estimations include approximately 3,133 residents that would be impacted by this new requirement. At present, staff anticipates that the purchase and installation of these devices would cost approximately \$5,000 per property.

To ensure compliance with the ordinance, staff will review new construction projects to determine the level of protection needed to safeguard the City's water system from hazards. Staff will also conduct site surveys and inspections on new developments to determine the need for backflow protection. For customers with backflow devices installed, staff will mail letters to the property owners reminding them to conduct annual testing and to forward results of the tests to the City as required by Title 17 Code of Regulations. City staff will maintain communication with customers to ensure they are in compliance with the proposed ordinance.

Customers who do not comply with the established ordinance will be notified via mail and given instructions on how to bring their water system into compliance. After reasonable amounts of time have elapsed (approximately 90 days) and compliance is not gained with outreach, customers that ultimately refuse to comply with the City's request would be disconnected from the public water supply until satisfactory compliance is gained.

If introduced by the Council, adoption of the final ordinance is scheduled for the December 5, 2023 City Council Meeting.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

LEGAL REVIEW:

The City Attorney has reviewed and approved the proposed revisions, developed an accompanying ordinance, and recommends that Manhattan Beach Municipal Code be amended to include the ordinance as presented in the attachment for City Council's approval.

ATTACHMENT:

1. Ordinance No. 23-0011

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH
ESTABLISHING REGULATIONS REGARDING WATER SUPPLY CROSS-
CONNECTIONS, AMENDING TITLE 7 OF THE MANHATTAN BEACH
MUNICIPAL CODE, AND APPROVING A CEQA DETERMINATION

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH DOES ORDAIN AS
FOLLOWS:

SECTION 1. A new Chapter 7.46 is hereby added to Title 7 of the Manhattan Beach
Municipal Code to read as follows:

“Chapter 7.46 – Cross-Connection Control

- Section 7.46.010 - Purpose
- Section 7.46.020 - Application
- Section 7.46.030 - Definitions
- Section 7.46.040 - Determination
- Section 7.46.050 - Notice
- Section 7.46.060 - Installation
- Section 7.46.070 - Inspection, Testing, and Maintenance
- Section 7.46.080 - Enforcement
- Section 7.46.090 - Administration

Section 7.46.010 - Purpose

The Purpose and Intent of this Section:

- A. To comply with the requirements imposed upon the City pursuant to Title 17, Section 7583-7605, inclusive, of the California Code of Regulations, entitled “Regulations Relating to Cross-Connections.”
- B. To protect the City’s public potable water supply system from contamination or pollution by isolating within the Water User’s internal distribution system(s) or the Water User’s private water system(s) contaminants or pollutants which could backflow into the City’s public water system.
- C. To promote the elimination or control of cross-connections, actual or potential, between the Water User’s potable water system(s) and non-potable water system(s), plumbing fixtures, and industrial systems; and
- D. To maintain a Cross-Connection Control Program, which will systematically and effectively minimize the potential for contamination or pollution of the City’s potable water system.

Section 7.46.020 - Application

The provisions of Title 17 of the California Code of Regulations (“CCR Title 17”) and all other regulations regarding Cross-Connections that are adopted by the State of California Department of Health Services pursuant to Health and Safety Code Section 116375(c), which may be amended from time to time, are hereby adopted by the City, incorporated herein by this reference, and made a part hereof as though set forth in full.

Section 7.46.030 - Definitions

In addition to the definitions outlined in CCR Title 17, the following terms are defined for the purpose of this chapter:

- A. **Approved Backflow Device:** Refers to the list of the backflow prevention devices listed in Section 7.46.030 (H)1-5.
- B. **Approved Water Supply:** The term “Approved Water Supply” shall mean a water supply whose potability is regulated by the Department of Health Services.
- C. **Auxiliary Water Supply:** The term “Auxiliary Water Supply” shall mean any water supply, other than the City’s, which is either on or available to the property. Auxiliary Water Supply may include water from another public potable water supply or from any natural source(s) such as, but not limited to, a well, a river, a stream, or used water. These waters may be contaminated, polluted, or constitute an unacceptable water source over which the City does not have sanitary control.
- D. **Backflow:** The term "Backflow" shall mean the undesirable reversal of flow of water or mixtures of water and other liquids, gasses, or substances into the distribution pipes of the City's potable water supply from any source or sources.
- E. **Backpressure:** The term "Backpressure" shall mean any elevation of water supply pressure which could cause, or tends to cause, a reversal of the normal direction of water flow.
- F. **Backsiphonage:** The term "Backsiphonage" shall mean the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by negative or sub atmospheric pressure in the potable water supply system.
- G. **Backflow Preventer:** The term “Backflow Preventer” shall mean an installed device designed to ensure water can only flow in one direction in order to prevent a reverse flow created by a difference in water pressure.

- H. **Backflow Prevention Device(s)**: The term “Backflow Prevention Device(s)” shall mean the different backflow prevention devices and assembly methods acceptable for use in the City. These are as follows:
1. **Air Gap (AG)**: The term "Air Gap" shall mean a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel.
 2. **Reduced Pressure Principle Backflow Prevention Assembly (“RPP Assembly”)**: The term "RPP Assembly" shall mean an assembly containing two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves. The unit shall include properly located resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly.
 3. **Double Check Valve Backflow Prevention Assembly (“DC Assembly”)**: The term “DC Assembly” shall mean an assembly composed of two independently acting approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly situated resilient seated test cocks.
 4. **Double Check Detector Assembly (“DCDA Assembly”)**: The term “DCDA Assembly” shall mean an assembly composed of a line-size approved double check valve with a bypass containing a specific water meter and an approved double check valve. The meter shall accurately register flow rates of up to two (2) gallons per minute (gpm) and shall show a registration of all flow rates.
 5. **Pressure Vacuum Breaker Assembly (“PVB Assembly”)**: The term “PVB Assembly” shall mean an assembly composed of a spring-loaded check valve, spring-loaded air inlet valve, test cocks, and two shut-off valves.
- I. **Contamination**: The term “Contamination” shall mean an impairment of the quality of the water, creating a public health hazard through poisoning or through the spread of disease by bacteria, virus, sewage, industrial fluids, or other toxic substances.
- J. **Cross-Connection**: The term “Cross-Connection” shall mean any actual or potential connection or structural arrangement between a public water system, including a piping system connected to the public water system located on the premises of a Water User or available to the Water User, and any source or distribution system containing liquid, gas, or other substances not from an approved water supply. Bypass arrangements, jumper connections, removable sections, swivel or change over devices, or other devices through which backflow could occur, shall be considered to be Cross-Connections.

- K. **Cross-Connection Controlled:** The term “Cross-Connections Controlled” shall mean a connection between a potable and non-potable water system with an approved backflow prevention assembly properly installed and maintained in order to continuously afford the proper protection.
- L. **Types of Hazards.** The types of hazards causing a particular level of damage in regards to health, plumbing, pollution, and/or potable water systems, in order of severity, are classified as follows:
1. **Health Hazard:** The term "Health Hazard" shall mean the actual or potential threat of contamination of a physical or toxic nature to the City's water system or the Water User's potable water system that would be a danger to the public's health.
 2. **Plumbing Hazard:** The term "Plumbing Hazard" shall mean an internal or plumbing type cross-connection in a Water User's potable water system that may be to a pollutant or contaminant. This includes, but is not limited to, cross-connections to toilets, sinks, lavatories, wash basins, swimming pool plumbing systems, and lawn sprinkler systems. If permitted to exist, this hazard must be properly protected by an appropriate type of backflow prevention assembly.
 3. **Pollution Hazard:** The term “Pollution Hazard” shall mean the actual or potential threat to the physical properties or the potability of the water system which would not constitute a health or system hazard. The potable water system would be degraded, depending on the degree or intensity of pollution, to the point where it becomes a nuisance, is aesthetically objectionable, or causes minor damage to the system or its appurtenances.
 4. **System Hazard:** The term “System Hazard” shall mean an actual or potential threat of severe danger to the physical properties of the City's or the Water User's potable water system, which could have a delayed effect on the quality of the potable water in the system.
- L. **Industrial Fluids:** The term “Industrial Fluids” shall mean any fluid or solution which may be toxic, or chemically, biologically, or otherwise contaminated or polluted in a form or concentration which would constitute a health, a system, a pollution, or a plumbing hazard if introduced into an approved water supply system.
- M. **Pollution:** The term “Pollution” shall mean an impairment of the water quality to a degree that does not create a public health hazard but does adversely affect the aesthetic qualities of such water for domestic use.
- N. **Potential:** The term “Potential” shall mean having or showing the capacity to become or develop into something in the future.

- O. **Service Connection:** The term "Service Connection" shall mean the downstream end of the water meter. This is the point of delivery to the Water User's water system where the City loses jurisdiction and sanitary control of the water.
- P. **User Supervisor:** The term "User Supervisor" shall mean a person designated by a Water User to oversee a water use site and who is responsible for preventing cross-connections.
- Q. **Potable Water:** The term "Potable Water" shall mean any public or private water supply that has been investigated and approved for human consumption.
- R. **Non-Potable Water:** The term "Non-Potable Water" shall mean any public or private water supply that has not been approved for human consumption.
- S. **Used Water:** The term "Used Water" shall mean any water supplied by the City from a public potable water system to a Water User's water system after it has passed through the service connection and is no longer under the City's control.
- T. **Water User:** The term "Water User" shall mean any person obtaining water from the public water system.

Section 7.46.040 - Determination

The City shall conduct surveys to identify Water User premises where Cross-Connections are likely to occur and evaluate the potential health hazards due to existing conditions. At a minimum, the evaluation shall consider the factors identified in Section 7585, CCR Title 17. However, notwithstanding anything herein to the contrary, the City shall not be legally responsible for the abatement of any Cross-Connections which may exist within a Water User's premises.

Section 7.46.050 - Notice

Upon determination by the City that a Cross-Connection exists within the scope of this Section, the City shall give written notice to the affected Water User to install an Approved Backflow Device of a type and quality, and at a specific location, deemed appropriate by the City. The Water User shall immediately install such device at his or her expense, and in the manner prescribed by the City within thirty (30) days of the issuance of the said notice.

Section 7.46.060 - Installation

The location of any Approved Backflow Device installed pursuant to this Section shall be at the Water User's point of connection to the City's water System, or within the Water User's premises, or both, as determined by the City's discretion. If an Approved Backflow Device is required to be installed on the Water User's connection to the City's water, it

shall be located at or near the property line of the premises or immediately outside the building being served, but, in all cases, at a place deemed acceptable by the City that is before the first branch line leading off the service line, and otherwise as required by Section 7603, CCR Title 17.

A. **Typical Installations:** Conditions where an Approved Backflow Device is required on each service connection, shall include, but are not limited, to the following:

1. In the case of a property having an Auxiliary Water Supply, or one that is being fed by another outside water source, the public water system shall be protected against backflow from the premises by installing an approved Air Gap or RPP Assembly device.
2. In the case of a property on which toxic chemicals, pollutants, industrial fluids, or any other objectionable substances are handled or stored in such a fashion as to create an actual or potential hazard to the City's system, the public water system shall be protected against backflow from the premises by installing an approved Air Gap or RPP Assembly device.
3. In the case of a property having internal cross-connections that cannot be permanently corrected or protected against, or intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist, the public water system shall be protected against backflow from the property by installing an approved RPP Assembly device.
4. In the case of a property being served by two or more water services, water and fire services, water and irrigation services, or any combination thereof, the public water system shall be protected against backflow from the premises by installing an approved RPP Assembly device on each service connection.
5. In the case of a property having a solar heating system of a heat ex-changer type that utilizes a recirculating pump, air conditioning units with chemical injection pots, or coolers with recirculating pumps, the public water system shall be protected against backflow from the premises by installing an approved RPP Assembly device.
6. In the case of a property on which there is water or a substance that may not be lawfully added to an Approved Water Supply, but not hazardous to the public's health if introduced into the public water system, the public water system shall be protected against backflow from the premises by installing an approved DC Assembly device.

7. In the case of a single-family or multi-family residential property where known health hazards exist, the public water system shall be protected against backflow from the premises by installing an approved RPP Assembly device.

B. **Typical Facilities:** Typical facilities where the City requires the installation of approved backflow prevention assemblies:

C.

Facility Type	Required Assembly Device
1. Apartments of eight or more units	RPP
2. Bottling Plants	RPP
3. Buildings- Commercial or Industrial	RPP
4. Buildings- Hotels, Motels	RPP
5. Buildings, Multi-storied (three or more floor levels)	RPP
6. Car Wash Facilities	RPP
7. Cleaners	RPP
8. Commercial Buildings	RPP
9. Cooling Towers	RPP
10. Fire Systems (not interconnected and interconnected), Hospitals- Medical buildings, Mortuaries, Autopsy	RPP, DC
11. Facilities, Nursing and Convalescent Homes, and Clinics	RPP
12. Irrigation Systems- Premises having separate systems: Parks, Playgrounds, Cemeteries, Golf Courses, Schools, Estates, Ranches	RPP
13. Laundries and Dye works	RPP
14. Mobile Home Parks	RPP
15. Multiple Rental Buildings - that are master metered	RPP
16. Plating Plants	RPP
17. Sand and Gravel Plants	RPP
18. Schools	RPP
19. Sewage Lift Stations	RPP
20. Sewage Treatment Plants	AG, RPP
21. Sprinkling Systems (chemically entrained)	RPP
22. Steam Facilities	RPP
23. Public Swimming Pools, and Pools at Apartments, Condominiums, Home Owner Associations, City Parks, Trailer Parks, Mobile Homes	RPP

Section 7.46.070 - Inspection, Testing and Maintenance

The City shall require a field test to be performed by a contractor certified to test and repair Approved Backflow Devices at the time of installation and at least once per year thereafter. In instances deemed necessary by the City, testing of Approved Backflow Devices may be required at more frequent intervals.

In the event that an Approved Backflow Device is found to be defective, the Water User shall make the necessary repairs or replacements. The Water User shall have an acceptance test performed after such repair or replacement to ensure proper operation of the Approved Backflow Device. All costs associated with the inspection, testing, repair, and maintenance of Approved Backflow Devices shall be borne by the Water User. Test results and records of all inspections, replacements, and repairs performed on an Approved Backflow Device by the Water User shall be maintained by the Water User and reported to the City in a manner deemed acceptable to the City.

Section 7.46.080 - Enforcement

The City may discontinue or refuse to supply water and/or sewer service to any premises that is not in strict compliance with the requirements of this Chapter or if it is found that an Approved Backflow Device has been removed or bypassed, or if unprotected Cross-Connections otherwise exist on the premises. The City may also disconnect water and/or sewer service to any premises if the health and safety of any person is immediately threatened by a Cross-Connection. The City may refuse to restore such service to the premises until the Cross-Connection is remedied and an Approved Backflow Device is installed and is operating in accordance with this Chapter.

Section 7.46.090 - Administration

The Public Works Director shall appoint at least one (1) person trained and certified in Cross-Connection Control to administer the provisions of this Chapter.”

SECTION 2. CEQA. The City Council finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment because the adoption of this Ordinance will provide for greater environmental protection by preventing contamination of the City’s water supply. It is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3), of the California Code of Regulations.

SECTION 3. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 4. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the

effectiveness of the remaining provisions or their application and, to this end, the provisions of this Ordinance are severable.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

SECTION 6. The Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

ADOPTED on _____, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

APPROVED AS TO FORM:

QUINN M. BARROW
City Attorney



CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Talyn Mirzakhian, Community Development Director
Adam Finestone AICP, Planning Manager
Tari Kuvhengahwa, Associate Planner

SUBJECT:

Conduct Public Hearing for Consideration of Introduction of an Ordinance Amending Title 10 (Planning and Zoning) and Title 11 (Subdivisions) of the Manhattan Beach Municipal Code to Incorporate Proposed Regulations Related to Senate Bill 9 (SB 9) (Community Development Mirzakhian).

(Estimated Time: 30 Mins.)

A) CONDUCT PUBLIC HEARING

B) INTRODUCE ORDINANCE NO. 23-0014

RECOMMENDATION:

Staff recommends that the City Council introduce an ordinance to amend Titles 10 (Planning and Zoning) and 11 (Subdivisions) of the Manhattan Beach Municipal Code (MBMC) to implement local regulations related to Senate Bill 9 (SB 9).

EXECUTIVE SUMMARY:

Due to the statewide housing crisis, the State legislature declared that housing is a matter of statewide concern and has adopted a series of statutes intended to facilitate the production of housing, including SB 9 which requires cities to approve additional dwelling units and subdivision of lots in single-family residential zones.

In 2021, an urgency ordinance was adopted to establish temporary regulations necessary to preserve the character of the City while also accommodating the requirements of SB 9. At that time City Council directed staff to prepare a permanent ordinance.

The proposed ordinance under consideration includes land use regulations pertaining to SB 9

projects, which can include SB 9 unit developments and/or urban lot splits. These regulations include, but are not limited to, standards addressing the number and size of units, location of units on a property, height, parking, and parcel size, and demolition and conveyance of properties. Much of the language included in the noted urgency ordinance has been maintained in the proposed MBMC amendment, with revisions and additions intended to improve clarity and ease-of-use. The proposed permanent ordinance includes the creation of two new chapters and revisions to three existing sections across Titles 10 and 11.

FISCAL IMPLICATIONS:

The adoption of this ordinance has no fiscal impact. There will be costs associated with staff resources for the processing of applications for SB 9 projects, which will be offset by application and plan check fees.

BACKGROUND:

On September 16, 2021, Governor Newsom signed into law SB 9 which became effective on January 1, 2022. SB 9 is among the many pieces of housing legislation adopted by the State since the declaration of a housing crisis in 2019. The overarching theme of this legislation is to facilitate housing production, in part by preempting local land use regulations.

SB 9 is a two-part housing bill that is applicable only in single-family residential zones and as such, is limited to the City's RS Single-Family Residential District. Specifically, SB 9 requires local jurisdictions to ministerially approve: 1) housing developments containing up to two residential units on a lot, exclusive of Accessory Dwelling Units (ADU) and Junior ADUs; and 2) urban lot splits, which are subdivisions of one lot into two lots regardless of the minimum lot size typically required in the zone. The property owner of an original lot in a single-family residential zone may opt to utilize either one part of the SB 9 regulations, or both parts simultaneously, both through ministerial processes (i.e., reviewed with no public hearing or discretion, provided that the proposed development is in compliance with established objective standards and requirements).

SB 9 effectively allows property owners to:

- A. Increase the density beyond that prescribed in single-family residential zones by allowing the development of up to two residential units (exclusive of ADUs/JADUs); and
- B. Subdivide a lot into two smaller lots that may not comply with the typical minimum lot size required in single-family residential zones.

A third provision of SB 9 would allow for additional extensions of time limits applicable to mapping actions governed by the Subdivision Map Act (for both SB 9 and non-SB 9 mapping actions). This third provision would not have a significant impact on new development or redevelopment within the City.

On December 21, 2021, the City Council adopted Urgency Ordinance No. 21-0009-U to establish objective development standards in addition to those established by SB 9, with an initial expiration date of February 4, 2022. Subsequently, on February 1, 2022, and December 6, 2022, the City Council adopted Urgency Ordinance No. 22-0003-U and No. 22-0012-U,

respectively, which ultimately extended the original urgency ordinance (No. 21-0009-U) through December 19, 2023. Pursuant to statute, no further extensions of the urgency ordinance are possible. In the event a permanent ordinance is not adopted and effective by December 19, 2023, the City is required to review proposed SB 9 projects based solely on regulations contained in SB 9.

A local jurisdiction is allowed to voluntarily adopt an SB 9 implementing ordinance with objective development standards to supplement the State regulations, provided that the ordinance complies with, and is no more restrictive than, State law. In order to continue applying additional objective development standards that acknowledge the City's unique character and development patterns, staff has researched and evaluated SB 9 regulations and drafted a permanent ordinance (Attachment 1 to this staff report) to replace the expiring urgency ordinance. The draft permanent ordinance is also intended to improve the clarity and ease-of-use as presented in this report.

The draft ordinance will further clarify and refine provisions in Urgency Ordinance 22-0012-U with additional code language where necessary. Specifically, the draft ordinance includes the creation of MBMC chapters 10.78 (SB 9 Unit Development) and 11.40 (Urban Lot Splits), and amendments to existing Sections 10.12.020 (Land Use Regulations: RS, RM, RH, RPD, and RSC Districts), 11.04.030 (Required Maps), and 11.12.040 (Expiration) in the MBMC.

The Planning Commission conducted one study session and one public hearing to consider the amendments to Title 10 (Planning and Zoning) of the MBMC and formulate a recommendation to the City Council regarding permanent regulations for SB 9 projects. At the November 8, 2023 Planning Commission meeting, the Planning Commission received the staff's presentation, conducted a public hearing, discussed the proposed regulations for Title 10 (Planning and Zoning) of the MBMC, and unanimously voted in favor of the proposed Title 10 development regulations outlined below. No recommendation was made on proposed amendments to Title 11 of the MBMC because that title is not within the purview of the Planning Commission.

DISCUSSION:

The following is a summary and analysis of the draft ordinance, as currently proposed by staff and recommended by the Planning Commission.

Draft Ordinance

SB 9 largely consists of two different components: a zoning component and a subdivision component. As such, new separate chapters of the MBMC are proposed, one in Title 10 and one in Title 11, with similar verbiage and content for consistency. For instance, the same or slightly modified language is used for the purpose, definitions, general requirements, and local standards that were derived from the Urgency Ordinance No. 21-0009-U or the MBMC. Newly added provisions that are included in both chapters include, but are not limited to:

- New definitions such as flag lot, primary dwelling unit, and principal residence.
- Restrictions on demolition or alteration of certain existing housing types (i.e., rented to moderate, low or very low income families, or occupied by a tenant in the last three years).
- Maximum number of units allowed.

Overall, a number of similar provisions are included in both chapters that reflect the original intent of SB 9 while being more specific to the type of project being regulated (i.e., SB 9 unit development or urban lot split). Provisions in the Urgency Ordinance No. 21-0009-U have been cleaned up or revised to be more consistent with standards and language found elsewhere in the MBMC.

A summary of the proposed ordinance as it relates to Chapter 10.78 (SB 9 Unit Development) and Chapter 11.40 (Urban Lot Splits) is provided below with key provisions identified in *italics*, followed by a discussion on the proposed amendment.

1. Chapter 10.78 (SB 9 Unit Development)

A) Clarified the maximum number of units permitted (Section 10.78.040.A)

A new provision is proposed to clarify the maximum number of units allowed in conjunction with ADU law, as the State designed SB 9 to be complementary to ADU law and can be used simultaneously. In general, lots that were not created through an urban lot split can have up to four units on the same lot, which can be a mix of primary dwelling units, ADUs, and JADUs. Importantly, no more than two primary dwelling units are allowed on the lot. The term “primary dwelling unit” is defined in Section 10.78.020 as a single-family residence that is not an ADU or JADU.

B) Included a provision related to demolition restrictions (Section 10.78.040.B.1)

A provision directly from the State SB 9 housing bill is incorporated to ensure that the City’s regulations regarding demolition are consistent with the State requirements, which prohibits demolition of more than 25 percent of the exterior walls when there has been a tenant in the existing dwelling within the last three years.

C) Included additional objective standards (Section 10.78.040.B.2 - 4)

Additional provisions were included to provide further guidance on how a property can be developed:

- Configuration of the primary dwelling units can be attached, adjacent to or detached from other units.
- The height of the new unit is subject to the base zoning district and Area District standards.
- Setbacks are specified as follows:
 - Four feet from side and rear property lines
 - Same as base zoning district for front setback, including how front setbacks are measured for flag lots
 - No new setbacks required for existing structures
 - Ten feet between detached primary dwelling units

D) Supplemented the parking provisions (Section 10.78.040.B.5.c-d.)

Two provisions have been added to ensure that all new and replaced parking will comply with the requirements of both State law and MBMC Chapter 10.64 (Off-street parking and loading regulations).

E) Specified limitations on separate conveyance (Section 10.78.040.B.6.d.)

A provision was added to clarify that separate conveyance of attached or detached primary dwelling units on the same lot is prohibited.

2. Chapter 11.40 (Urban Lot Splits)

A) Included a provision on the area and size of the parcel (Section 11.40.040.A)

A provision from the State SB 9 housing bill regarding the size and proportion of the resulting lots for urban lot splits is being incorporated to ensure the ordinance clearly states the base requirements.

B) Clarified the maximum number of units permitted (Section 11.40.040.B)

A new provision is proposed to clarify the maximum number of units allowed on lots with an urban lot split. Specifically, lots that are created through an urban lot split can have up to two units on each resulting lot, inclusive of ADUs and JADUs.

C) Included a requirement for parcel maps (Section 11.40.040.C.5)

A provision is included to require that an applicant for an urban lot split must submit a parcel map that clearly states that it is an “urban lot split” pursuant to Government Code Section 66411.7 and Chapter 11.40 of the MBMC. This will assist the City in ensuring that no subsequent urban lot splits are granted in the future per State SB 9 regulations.

D) Included provisions on separate conveyance (Section 11.40.040.D)

New provisions are proposed on separate conveyance within and between the resulting lots. Specifically, attached or detached primary dwelling units within the resulting lot (i.e., the two dwelling units on the lot created by an urban lot split) may not be owned or conveyed separately. However, separate conveyance of the resulting lots is possible and structures that span the lot line may be allowed if building and safety code standards are met and necessary documentation that allocates the rights and responsibilities between the two owners are recorded.

3. Additional MBMC Amendments

Minor amendments are also proposed in Chapters 10.12 (Residential Districts), 11.04 (General Provisions), and 11.12 (Subdivision Maps) of the MBMC to ensure internal consistency.

A) Chapter 10.12 (Residential Districts)

The existing ‘Land Use Regulations’ table found in Section 10.12.020 (Land use regulations: RS, RM, RH, RPD, and RSC districts) will be updated to show that ‘SB 9 Unit Development’ will be a permitted use in the RS zone, subject to the requirements of State law and in accordance with Chapter 10.78.

B) Chapters 11.04 (General Provisions) and 11.12 (Subdivision Maps)

Sections 11.04.030 (Required Maps) and 11.12.040 (Expiration) are amended to include verbiage on urban lot splits, as the application will be subject to Title 11 (Subdivisions).

Extension of Subdivision Map Expiration Timeline

The third component of SB 9, which has less impact than components described above, amends Government Code Section 66452.6. This is a section of the Subdivision Map Act (SMA) where SB 9 allows an additional 12 month extension to the expiration date of tentative subdivision maps. Per the SMA, a tentative subdivision map ordinarily expires a minimum of 24 months after approval, which, prior to SB 9, could be extended by 12 months for a total of 36 months. Under SB 9, this period can be further extended by an additional 12 month period which results in a total of 48 months. For maps that are not filed under urban lot splits, SB 9 establishes a property owner's right to an extension of 48 months (previously 36 months) after the filing of the final map(s) if at least \$236,790 was expended on off-site public improvements.

While SB 9 extends the timeline in the SMA for final map recordation, the City's current provision related to subdivision map expirations is less stringent than the SMA in that a tentative map approval is valid for 36 months, with an allowance to extend up to 36 months (for a total of 72 months). However, given that urban lot splits were part of the same housing bill and the fact that a relatively shorter timeline can ensure there is an adequate and timely follow-through from the applicant, staff is proposing to apply the 48-month SMA timeline (instead of the longer 72-month timeline) for SB 9 urban lot splits, as incorporated in Section 11.12.040 (Expiration).

POLICY ALTERNATIVES:

If the City Council opts not to introduce the draft ordinance as proposed by staff and recommended by the Planning Commission, the Council may elect to proceed with either of the following policy alternatives:

ALTERNATIVE # 1:

Introduce the draft ordinance with revisions.

Depending on the nature of the revisions, staff would ensure the revisions are consistent with the community goals identified through the General Plan and in compliance with State law.

ALTERNATIVE # 2:

Take no action.

In this scenario, and upon expiration of the Urgency Ordinance, the City would review proposed SB 9 projects solely for compliance with the minimal standards set by State law. This could lead to conflicts with the community goals identified through the General Plan, as well as inconsistencies between the MBMC and the Government Code.

CONCLUSION:

The proposed ordinance will allow the development of SB 9 unit developments and urban lot splits, as required by State law, while acknowledging the unique residential development patterns of Manhattan Beach and protecting the City's character to the extent State law permits.

Staff recommends that the City Council conduct a public hearing and introduce Ordinance No. 23-___ amending titles 10 and 11 of the Manhattan Beach Municipal Code to regulate SB 9

projects.

PUBLIC OUTREACH:

The Planning Commission conducted one study session and one public hearing on this matter. A courtesy notice for the Planning Commission study session was published in the Beach Reporter and posted at City Hall on September 14, 2023, for a September 27, 2023 meeting. Staff utilized the City’s social media platforms during the weeks of September 18 and 25 to inform the public of the study session.

A quarter-page legal advertisement for a Planning Commission public hearing on November 8, 2023, was published in the Beach Reporter and posted at City Hall on October 26, 2023.

A quarter-page legal advertisement for the City Council public hearing on December 5, 2023, was published in the Beach Reporter and posted at City Hall on November 23, 2023.

Additionally, the City maintains an SB 9 webpage (<https://www.manhattanbeach.gov/sb9>) to provide information to the public about the State legislation, the City’s current urgency ordinance, and other periodic updates.

As of the writing of this report, staff has not received any comments.

ENVIRONMENTAL REVIEW:

Pursuant to Government Code Sections 65852.21(j) and 66411.7(n), a local ordinance implementing SB 9 is not a “Project” as defined in Section 21065 of the Public Resources Code or Section 15378 of the California Environmental Quality Act (CEQA) guidelines; therefore, it is not subject to environmental review pursuant to CEQA.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Ordinance No. 23-0014
2. November 8, 2023 - Planning Commission Staff Report (Web-Link Provided)
3. PowerPoint Presentation

ORDINANCE NO. 23-0014

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH
ADDING CHAPTERS 10.78 AND 11.40, AND AMENDING
SECTIONS 10.12.020, 11.04.030, AND 11.12.040, OF THE
MANHATTAN BEACH MUNICIPAL CODE TO IMPLEMENT
SENATE BILL 9 (SB 9)

THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES AS
FOLLOWS:

SECTION 1. The City Council hereby adds Chapter 10.78 (SB 9 Unit Developments) to Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code to read as follows:

“Chapter 10.78 – SB 9 Unit Developments

Section 10.78.010 – Purpose and Applicability

Section 10.78.020 – Definitions

Section 10.78.030 – General Requirements and Application Procedure

Section 10.78.040 – Local Standards

Section 10.78.010 Purpose and applicability.

The purpose of this chapter is to implement the requirements of Government Code Section 65852.21 to allow a proposed housing development containing no more than two residential units on a single lot within a single-family residential zone. Except as expressly provided in this chapter or Government Code Section 65852.21, all other applicable regulations in the Municipal Code shall apply.

Section 10.78.020 Definitions.

"Existing residence," for purposes of this chapter, means a dwelling unit that has been constructed legally.

"Flag lot," for purposes of this chapter, means a lot resulting from a subdivision of land wherein the lots or parcels of land are laid out one behind the other, with only one lot or parcel of land (referred to as the front lot) having frontage on a public street, other than a driveway or access easement for the rear lot.

"Primary dwelling unit," for purposes of this chapter, means a single-family residence that is not an ADU or JADU

"Principal residence," for purposes of this chapter, means the owner-occupied residence on the property.

Section 10.78.030 General requirements and application procedure.

- A. The project is located on a parcel within the RS Single-Family Residential Zoning District.
- B. Applicants are required to submit an application, accompanied by a fee set by the City Council, including submittal documents required by the Community Development Director.
- C. The applicant and the property owner shall provide a sworn statement affirming eligibility with the regulations contained in this chapter.
 - 1. The City, at the applicant's expense, may conduct independent inquiries and investigation to ascertain the veracity of any or all portions of the sworn statement.
- D. All new residential units shall satisfy the requirements of the California Building Standards Code, as amended by the City, and any other applicable laws.
- E. Applications submitted pursuant to this chapter shall be considered ministerially, without discretionary review or a hearing, consistent with state law.

Section 10.78.040 Local standards.

Residential developments pursuant to Government Code Section 65852.21 shall also comply with the following standards:

A. Number of Units Permitted

- 1. A maximum of two primary dwelling units may be permitted on an RS zoned lot that has not undergone an urban lot split pursuant to Chapter 11.40.
- 2. A maximum of four total units shall be permitted on a lot that has not undergone an urban lot split pursuant to Chapter 11.40, inclusive of ADUs and JADUs. The maximum number of units permitted may be any combination of primary dwelling units, ADUs, or JADUs, provided that the total permitted number of units per lot is not exceeded, and is subject to the limitations on the development of ADUs and JADUs found in Chapter 10.74 (Accessory Dwelling Units).
- 3. A maximum of two units shall be permitted on a lot that has been created by an urban lot split pursuant to Chapter 11.40, inclusive of ADUs and JADUs.

B. Development Standards

- 1. **Demolition Cap.** Residential development pursuant to Government Code Section 65852.21 may not involve the demolition of more than 25 percent of the existing exterior structure walls of an existing dwelling, unless the site has not been occupied by a tenant in the last three years.

2. **Configuration.** Primary dwelling units, may be attached to, adjacent to, or detached from, any other dwelling unit on the parcel, subject to subsection (B)(1).
3. **Height.** New units shall be subject to the RS base district and Area District regulations as defined in Section 10.12.030.
4. **Setbacks**
 - a. New units, inclusive of attached garages, shall be built no less than four feet from the side and rear property lines, and comply with the underlying zoning district front setback requirement.
 - i) Exception. For flag lots, the front setback shall be measured from the portion where the “flag pole” meets the flag portion of the lot and to the face of the structure.
 - b. No new setbacks shall be required for an existing structure or for a structure constructed in the same location and to the same dimensions as an existing structure.
 - c. Detached primary dwelling units shall have a minimum ten-foot building separation from each other.
5. **Parking**
 - a. Required parking shall be accessed via an alley for a parcel abutting an alley.
 - b. One enclosed or partially enclosed parking space is required for each new unit created pursuant to the regulations in this chapter, except when the parcel upon which the unit is created is located within one block of a car share vehicle or within one-half (½) mile walking distance to:
 - i) A high quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code.
 - ii) A major transit stop, as defined in Section 21064.3 of the Public Resources Code.
 - c. If the residential development requires the conversion or demolition of a garage, carport, or covered parking structure required under Chapter 10.64, replacement parking space(s) shall be provided in any configuration on the same lot, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts, without adversely impacting traffic flow and public safety.
 - d. The placement and dimensions of all new and replaced parking spaces, driveways, vehicular access, turning radius and similar parking standards shall comply with the requirements set forth in Chapter 10.64.

6. Additional Requirements

- a. Non-public utility electrical elements such as wires, conduits, junction boxes, and switch and panel boxes shall be screened from view from adjacent public rights-of-way.
- b. Refuse containers shall comply with Section 5.24.030.
- c. All flashing, sheet metal vents, and pipe stacks shall be painted to match the adjacent roof or wall material.
- d. Residential units developed pursuant to this chapter shall not be owned or conveyed separately from the other primary unit on the same lot.
- e. Notwithstanding any provision of Government Code Section 65852.21 or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:
 - i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - ii) Housing that has been occupied by a tenant in the last three years.

7. Exceptions. The Community Development Director shall approve an exception to any of the objective standards specified herein that would have the effect of physically precluding the construction of up to two primary dwelling units or that would physically preclude either of the two primary dwelling units from being at least 800 square feet in floor area.

8. Covenant Required. The property owner shall record a declaration of restrictions, in a form approved by the City Attorney prior to issuance of a building permit, placing the following restrictions on the property, the property owner, and all successors in interest:

- a. Non-residential uses on the site shall be prohibited except as allowed by Section 10.52.070;
- b. Short-term rentals for periods less than 30 days of any unit on the site shall be prohibited;
- c. Access to the public right-of-way/alley shall be maintained in perpetuity;
- d. All required parking shall be maintained; and
- e. The property owner and all successors in interest shall maintain the residential development(s) and the property in accordance with all applicable Government Code Section 65852.21 requirements and standards.

9. **Denial.** The Community Development Director may deny an application for an urban lot split pursuant to Government Code Section 65852.21 by making the following findings in writing based upon a preponderance of evidence:
 - a. The proposal would have a specific, adverse impact upon the public health and safety or the physical environment as defined in Government Code Section 65589.5(d)(2); and
 - b. There is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.”

SECTION 2. The City Council hereby amends Section 10.12.020 (Land Use Regulations: RS, RM, RH, RPD, and RSC Districts) of Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code to read as follows:

“Section 10.12.020 Land use regulations: RS, RM, RH, RPD, and RSC districts.

In the following schedule, the letter "P" designates use classifications permitted in residential districts. The letter "L" designates use classifications subject to certain limitations prescribed under the "Additional Use Regulations" which follows. The letter "U" designates use classifications permitted on approval of a use permit, as provided in Chapter 10.68. The letters "P/U" for accessory uses mean that the use is allowed on the site of a permitted use, but requires a use permit on the site of a conditional use. Letters in parentheses in the "Additional Regulations" column refer to "Additional Use Regulations" following the schedule. Where letters in parentheses are opposite a use classification heading, referenced regulations shall apply to all use classifications under the heading.

**RS, RM, RH, RPD, and RSC DISTRICTS
LAND USE REGULATIONS**

P — Permitted

PDP — Precise Development Plan

SDP — Site Development Permit

U — Use Permit

L — Limited, (See additional use regulations)

- — **Not Permitted**

	RS	RM	RH	RPD	RSC	Additional Regulations
Residential Uses						(A)
Day Care, Small Family Home	P	P	P	P	P	(P)
Day Care, Large Family Home	L-22	L-22	L-22	L-22	L-22	(P)

Group Residential	-	-	U	-	U	
Multi-family Residential						
SB 9 unit development	P	-	-	-	-	(Q)
5 or fewer units	-	P	P	P	U	(B)(C)(L)(P)
6 or more units	-	PDP/SDP	PDP/SDP	PDP/SDP	U	(B)(C)(L)(O)(P)
Multi-family Transient Use	-	-	-	-	-	
Residential Care, Limited	P	P	P	P	P	
Single-family Residential	P	P	P	P	P	(C)(P)
Single-family Transient Use	-	-	-	-	-	

(Q) Only for SB9 unit development projects pursuant to Government Code section 65852.21, as may be amended from time to time, and in accordance with Chapter 10.78. ”

SECTION 3. The City Council hereby adds Chapter 11.40 (Urban Lot Splits) to Title 11 (Subdivisions) of the Manhattan Beach Municipal Code to read as follows:

“Chapter 11.40 – Urban Lot Splits

Section 11.40.010 – Purpose and Applicability

Section 10.40.020 – Definitions

Section 10.40.030 – General Requirements and Application Procedure

Section 10.40.040 – Local Standards

Section 11.40.010 Purpose and applicability.

The purpose of this chapter is to implement the requirements of Government Code Section 66411.7 to allow an urban lot split for a parcel within a single-family residential zone. Except as expressly provided in this chapter or Government Code Section 66411.7, all other applicable regulations in the Municipal Code and Subdivision Map Act shall apply.

Section 11.40.020 Definitions.

"Flag lot," for purposes of this chapter, means a lot resulting from a subdivision of land wherein the lots or parcels of land are laid out one behind the other, with only one lot or parcel of land (referred to as the front lot) having frontage on a public street, other than a driveway or access easement for the rear lot.

"Primary dwelling unit," for purposes of this chapter, means a single-family residence that is not an ADU or JADU.

"Principal residence," for purposes of this chapter, means the owner-occupied residence on the property.

"Urban Lot Split," for purposes of this chapter, means a parcel map subdivision permitted pursuant to Government Code Section 66411.7.

Section 11.40.030 General requirements and application procedure.

- A. The parcel is located within the RS Single-Family Residential Zoning District.
- B. An urban lot split application shall be submitted and processed in accordance with Title 11 (Subdivisions).
- C. The applicant and the property owner shall provide a sworn statement affirming eligibility with the regulations contained in this chapter.
 - 1. The City, at the applicant's expense, may conduct independent inquiries and investigation to ascertain the veracity of any or all portions of the sworn statement.
- D. Applications submitted pursuant to this chapter shall be considered ministerially, without discretionary review or a hearing, consistent with state law.

Section 11.40.040 Local standards.

Urban lot splits shall comply with Government Code Section 66411.7 and the following standards:

- A. **Parcel Size.** The resulting parcels shall not be smaller than 40% of the existing parcel proposed for subdivision and must be at least 1,200 square feet in area.

B. Number of Units Permitted

1. Any lot created by an urban lot split pursuant to this chapter shall be limited to a maximum of two units, inclusive of Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU).
2. The maximum number of units permitted on a lot may be any combination of primary dwelling units, ADUs, or JADUs, provided that the total permitted number of units per lot is not exceeded, and is subject to the limitations on the development of ADUs and JADUs found in Chapter 10.74 (Accessory Dwelling Units).

C. Additional Requirements

1. The width of any lot resulting from an urban lot split shall not be less than 20 feet wide.
2. New driveways proposed for parcels created by an urban lot split on interior lots without alley access are limited to a maximum width of 10 feet if the proposed frontage of the new parcel is 30 feet or less.
3. Required parking shall be accessed via an alley for a parcel abutting an alley.
4. No flag lots shall be created as a result of an urban lot split if the subject property is adjacent to an alley, located on a corner, or a through lot.
5. The parcel map shall demonstrate the ability to access the public right-of-way in perpetuity, and state it is for the purpose of an urban lot split in accordance with Government Code Section 66411.7.
6. Notwithstanding any provision of Government Code Section 66411.7 or any local law, the urban lot split shall not require demolition or alteration of any of the following types of housing:
 - a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - b. Housing that has been occupied by a tenant in the last three years.

D. Separate Conveyance

1. Within the resulting lot:

Primary dwelling units on a lot that is created by an urban lot split may not be owned or conveyed separately from each other.

2. Between the resulting lots:

Separate conveyance of the resulting lots is permitted. If dwellings or other structures (such as garages) on different lots are adjacent or attached to each other, the urban lot split boundary may separate the lots for conveyance purposes if the structures meet building code safety standards and are sufficient to allow separate conveyance. If any attached structures span or will span the new lot line, the owner must record appropriate CC&Rs, easements, or other documentation that is necessary to allocate rights and responsibility between the owners of the two lots.

E. **Covenant Required.** The property owner shall record a declaration of restrictions, in a form approved by the City Attorney prior to recordation of the parcel map, placing the following restrictions on the property, the property owner, and all successors in interest:

1. Non-residential uses on the site shall be prohibited except as allowed by Section 10.52.070;
2. Short-term rentals for periods less than 30 days of any units on the site shall be prohibited;
3. Any subsequent urban lot split of land that was previously subdivided with an urban lot split shall be prohibited;
4. Access to the public right-of-way/alley shall be maintained in perpetuity;
5. All required parking shall be maintained;
6. Except as provided in Government Code Section 66411.7 for community land trusts and qualified non-profit corporations, the owner of the property for which an urban lot split is proposed shall sign an affidavit stating that the owner intends to occupy one of the housing units as their principal residence for at least three years from the date of the approval of the urban lot split; and

7. The property owner and all successors in interest shall maintain the properties in accordance with all applicable Government Code Section 66411.7 requirements and restrictions.

F. **Denial.** The Community Development Director may deny an application for an urban lot split pursuant to Government Code section 66411.7 by making the following findings in writing based upon a preponderance of evidence:

1. The proposal would have a specific, adverse impact upon the public health and safety or the physical environment as defined in Government Code Section 65589.5(d)(2); and
2. There is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.”

SECTION 4. The City Council hereby amends Section 11.04.030 (Required Maps) of Title 11 (Subdivisions) of the Manhattan Beach Municipal Code to read as follows:

“Section 11.04.030 Required maps.

- A. A tentative and final map shall be required for any subdivision, including urban lot splits pursuant to Government Code section 66411.7, a condominium project, stock cooperative project or community apartment project for which a tentative and final map is required by the Subdivision Map Act.
- B. A tentative and final map shall be required for any subdivision, for which a tentative and final map is not required by the Subdivision Map Act, except when the Subdivision Map Act specifically provides that no map shall be required for a particular type of project.
- C. No tentative or final map shall be required for lot line adjustments.”

SECTION 5. The City Council hereby amends Section 11.12.040 (Expiration) of Title 11 (Subdivisions) of the Manhattan Beach Municipal Code to read as follows:

“Section 11.12.040 Expiration.

- A. Approved or conditionally approved tentative maps shall expire thirty-six (36) months after such approval or conditional approval. Upon application by the subdivider, filed with Community Development prior to the expiration of the tentative map, the Planning Commission may extend the date on which the map expires. Each extension granted shall not

exceed twelve (12) months and the total extension period shall not exceed three (3) years.

- B. Urban Lot Splits. Notwithstanding paragraph A., tentative maps that are approved or conditionally approved pursuant to Government Code Section 66411.7 and Chapter 11.40 of this Code shall expire pursuant to Government Code Section 66452.6, no later than forty-eight (48) months after such approval or conditional approval.”

SECTION 6. CONSISTENCY WITH GENERAL PLAN AND ZONING CODE’S NOTICE AND HEARING REQUIREMENTS. The proposed zoning text amendments will be consistent with the General Plan Goals and Policies as they are consistent with the City’s Housing Element of the General Plan in that it will “facilitate the development of housing through the removal of local regulatory constraints.” The proposed zoning text amendments are also consistent with the notice and hearing requirements of the City’s Zoning Code.

SECTION 7. INTERNAL CONSISTENCY. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 8. SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or their application and, to this end, the provisions of this Ordinance are severable.

SECTION 9. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

ADOPTED on _____, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

APPROVED AS TO FORM:

QUINN M. BARROW
City Attorney

ATTACHMENTS :

ATTACHMENT NAME : Planning Commission Staff Report – November 8, 2023

LINKS :

https://cms6ftp.visioninternet.com/manhattanbeach/commissions/planning_commission/2023/20231108/20231108-2.pdf

<https://www.manhattanbeach.gov/home/showpublisheddocument/53426>

SENATE BILL 9 (SB 9) ORDINANCE ZONING AND SUBDIVISION TEXT AMENDMENTS

December 5, 2023
City Council Meeting
December 5, 2023

City Council Meeting



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Note: This PowerPoint presentation is intended solely as a visual aid to an oral staff presentation of an agenda report topic. In the event of any differences between the presentation and the agenda report, the information in the agenda report prevails.

BACKGROUND

September 16, 2021

- Senate Bill 9 (SB 9) signed into law
 - Intended to facilitate housing production
 - Effective January 1, 2022

December 21, 2021

- Urgency Ordinance adopted by Council
 - Establish standards in addition to SB 9 regulations
 - Set to expire December 2023



BACKGROUND

Summary of SB 9 Legislation

- Requires ministerial review/approval
- Only applicable to single-family zones
 - **SB 9 Unit:** Development of up to two units per lot, exclusive of ADU/JADU; and/or
 - **Urban Lot Split:** Subdivision of one lot into two lots of approximately equal in size
- Extends time limit of Subdivision Map Act



BACKGROUND

Summary of SB 9 Legislation (Cont'd)

- City may adopt additional regulations provided that:
 - Not more restrictive than State law
 - Individually or cumulatively does not reduce a site's development capacity



URGENCY ORDINANCE SUMMARY

SB 9 Unit Development

- **Number of Units** - An existing single-family zoned property may have a maximum of two primary units and a maximum of 2 ADU/JADUs.
- **Size** - Minimum 800 square feet allowed.
- **Setbacks** - Require 4 feet side and rear setbacks;
Must comply with front setback requirement.

URGENCY ORDINANCE SUMMARY

SB 9 Unit Development (Cont'd)

- **Existing Setbacks** – Existing residential units or those reconstructed in the same location and dimensions may maintain their current setbacks.
- **Prohibited** – Short-term rentals; non-residential uses.
- **Parking** – One off-street parking space/residential unit required.
Existing parking to be maintained.



URGENCY ORDINANCE SUMMARY

Urban Lot Split

- **Area/Quantity** - No more than 2 resulting parcels at least 1,200 square feet allowed.
- **60:40** - Neither resulting lot shall be less than 40% of the original lot area.
- **Number of Units** - Resulting parcels may have a max. of 2 units.
- **Lot Width** - New lots must be at least 20 feet wide.
- **Existing Residences** - Cannot straddle newly-created lot line(s).



URGENCY ORDINANCE SUMMARY

Urban Lot Split (Cont'd)

- **Flag Lot** – Prohibited if adjacent to an alley, on a corner lot, or on a through lot.
- **Limits** – Subsequent lot split prohibited.
- **Owner Occupancy** – Required on one of the resulting parcels for a minimum of 3 years.
- **Access** – Perpetual access from each split parcel to the street/alley is required.

DRAFT ORDINANCE OVERVIEW

Purpose

- Apply additional provisions acknowledging City's character while implementing State law
- Improve clarity and ease-of-use
 - Clean-up of Urgency Ordinance; format based on MBMC*

* MBMC: Manhattan Beach Municipal Code



DRAFT ORDINANCE OVERVIEW

New MBMC Chapters

- 10.78 - SB 9 Unit Developments
- 11.40 - Urban Lot Splits

Amended MBMC Sections

- 10.12.020 - Land Use Regulations (Table)
- 11.04.030 - Required Maps
- 11.12.040 - Expiration



DRAFT ORDINANCE OVERVIEW

Applicable to Both New Chapters

- Add new definitions
- Include restriction of demo/alteration for certain housing consistent with State law
- Clarify maximum number of units permitted

DRAFT ORDINANCE – ALLOWED UNITS

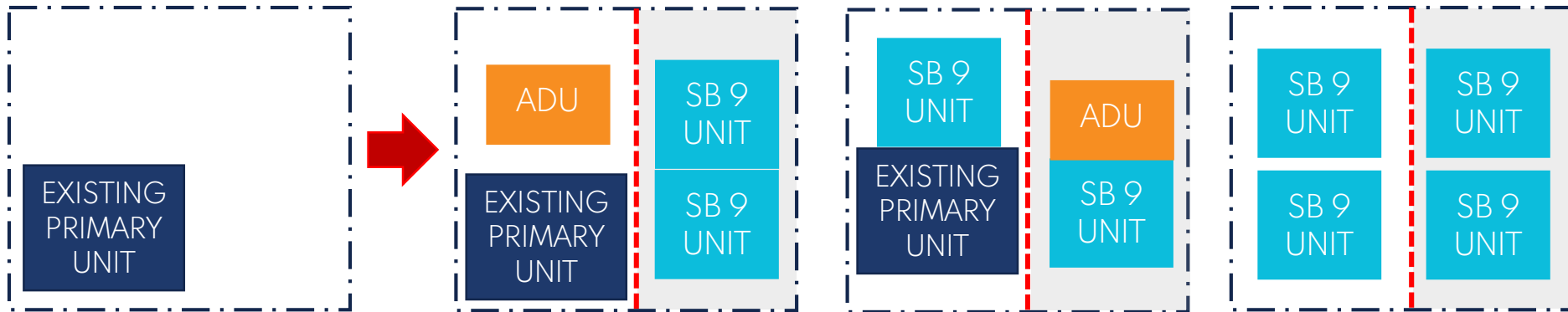
- WITH Urban Lot Split: Max. 2 units/lot



Examples are intended only to show a variety of possible configurations

DRAFT ORDINANCE – ALLOWED UNITS

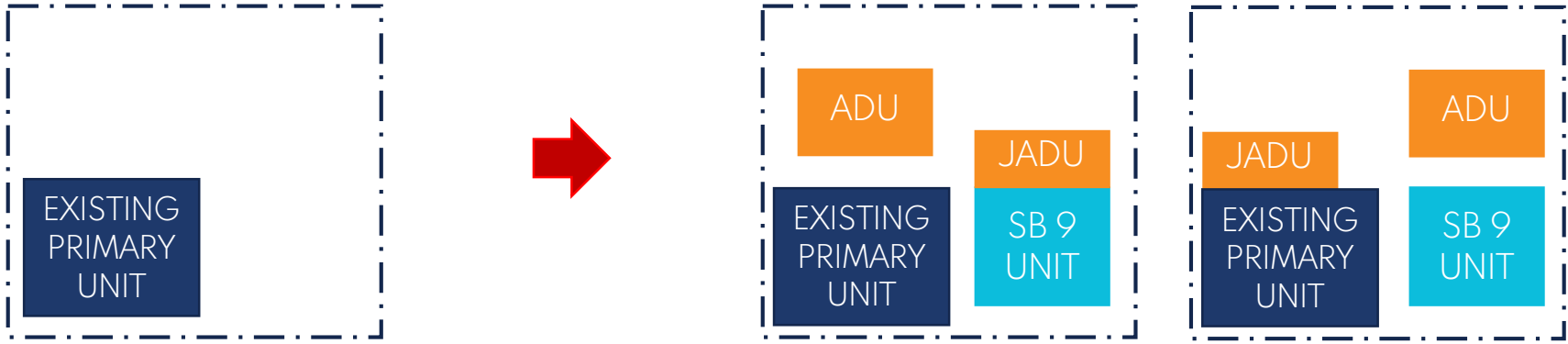
- WITH Urban Lot Split: Max. 2 units/lot



Examples are intended only to show a variety of possible configurations

DRAFT ORDINANCE – ALLOWED UNITS

- WITHOUT Lot Split: Max. 4 units*



* Cannot exceed more than 2 Primary Units/lot

Shown as  or 

Examples are intended only to show a variety of possible configurations

DRAFT ORDINANCE – SB 9 UNITS

- Include demolition restrictions
- Supplement parking provisions
- Specify limits on separate conveyance

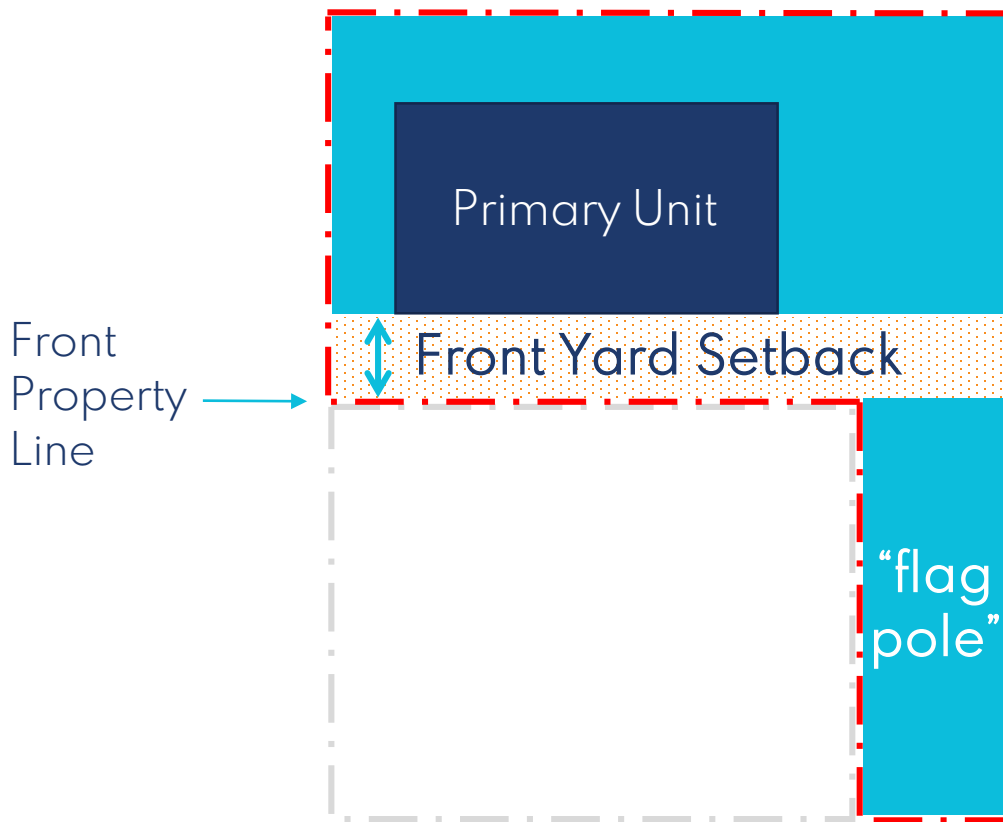


DRAFT ORDINANCE – SB 9 UNITS

- Include additional objective standards
 - Configuration of primary units: attached, adjacent to, or detached from other units
 - Height: Per base zoning district standards
 - Setbacks:
 - Side and Rear : 4 feet
 - Front: Included measurement for flag lots
 - 10 feet between primary dwelling units

DRAFT ORDINANCE – SB 9 UNITS

Illustration of flag lot and front yard setback measurement



DRAFT ORDINANCE – URBAN LOT SPLITS

- Specify parcel area and size limit
 - Minimum 1,200 sq. ft., 60:40 ratio
- Include requirement for parcel maps
 - Specify purpose of parcel map (i.e., Urban lot split)
- Include separate conveyance provisions
 - Prohibited for primary units on resulting lots
 - However, resulting lots and structures that span the lot line may be allowed

SUBDIVISION MAP ACT (SMA)

- SB 9 extends tentative map expiration timeline by an additional 12 months
- MBMC amendment would apply 48-month timeline to urban lot splits only

	MBMC	SMA
Expiration	36 months	24 months
Extensions	Max. 36 months	Max. 24 months
Total	Max. 72 months	Max. 48 months

ENVIRONMENTAL REVIEW

- Local ordinances implementing SB 9 are exempt from California Environmental Quality Act (CEQA)



PLANNING COMMISSION RECOMMENDATION

- On November 8, 2023, unanimously recommended adoption of the proposed amendments to Title 10 (Planning and Zoning)
- No recommendation for Title II: not under Planning Commission's purview



POLICY ALTERNATIVES

- Introduce the draft ordinance, with any modifications as agreed upon by City Council.
- Do not adopt a permanent ordinance, at which point only the State regulations will be applicable to SB 9 projects.

RECOMMENDATION

- Conduct the Public Hearing
- Introduce ordinance amending the Manhattan Beach Municipal Code:
 - Title 10 (Planning and Zoning)
 - Title 11 (Subdivisions)



SENATE BILL 9 (SB 9) ORDINANCE ZONING TEXT AMENDMENTS

December 5, 2023

City Council Meeting

December 5, 2023

City Council Meeting



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CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Talyn Mirzakhanian, Community Development Director
Adam Finestone AICP, Planning Manager

SUBJECT:

Conduct Public Hearing to Consider Revocation of the Use Permit (Resolution No. 6055) for Property Located at 1727 Artesia Boulevard Due to the Property Owner’s Failure to Comply with Conditions of Approval (Community Development Director Mirzakhanian).

(Estimated Time: 30 Mins.)

A) CONDUCT PUBLIC HEARING

B) DIRECT STAFF TO BRING FORWARD A RESOLUTION REVOKING THE USE PERMIT ISSUED FOR THE SUBJECT PROPERTY

RECOMMENDATION:

Staff recommends that the City Council conduct a public hearing and direct staff to bring forward a resolution revoking the Use Permit for property located at 1727 Artesia Boulevard due to noncompliance with the conditions of approval.

EXECUTIVE SUMMARY:

In 2006, the City Council conditionally approved a Use Permit, subject to conditions, for a 5,800 square-foot commercial building on property located at 1727 Artesia Boulevard (“The subject property”). In reliance on that Use Permit, the subject property was developed in 2009 with an approximately 5,800 square-foot commercial building. The approval was conditioned upon several conditions, including a condition that required the property owner to dedicate and improve, at no cost to the City, an eight-foot wide right-of-way dedication along the Aviation Boulevard frontage to accommodate the future installation of a right-turn lane from southbound Aviation Boulevard to westbound Artesia Boulevard. Pursuant to the Use Permit, all the conditions, including the dedication and improvement condition, are binding on all future owners and possessors of the property. However, the property owner has, to date, neither dedicated the property, nor paid for the improvement. Because the property owner has neither dedicated the

property nor paid for its improvement, the use on the property is operating in violation of the Use Permit conditions.

FISCAL IMPLICATIONS:

The City has incurred significant construction costs (\$1,456,257.61) in connection with the now-completed project, and attorneys' fees in connection with the eminent domain action referenced below. There are no direct fiscal implications of revoking the Use Permit.

BACKGROUND:

In November 2005 the then-owner of the property applied for a Use Permit to develop the property located at 1727 Artesia Boulevard. Pursuant to the Manhattan Beach Municipal Code (MBMC), a Use Permit is required for, among other a reasons, the prior property owner's application include the following requests:

1. Construction of a commercial building larger than 5,000 square feet; and
2. Development of a commercial project on a parcel greater than 10,000 square feet.

After conducting a public hearing to consider the Use Permit at its August 12, 2006, meeting, the City Council adopted Resolution No. 6055, conditionally approving the application for a Use Permit, subject to several conditions, including Condition Nos. 38, 43 and 44:

38. An 8-foot dedication and improvements shall be required on Aviation Boulevard for future widening of the right-of-way for an additional right-hand turn pocket for traffic traveling west onto Artesia Boulevard to the satisfaction of the City Engineer.

43. The permit may be assigned to any qualified person(s) subject to submittal of the following information to the Director of Community Development:

- a. A complete application and application fee as established by the City's Fee Resolution**
- b. An affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;**
- c. Evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;**
- d. The original permittee's request to assign all rights to undertake the development to the assignee; and**
- e. A copy of the original permit showing that it has not expired.**

44. Terms and Conditions are Perpetual. These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

The Applicant did not challenge Condition No. 38 or any other conditions and the time to

challenge any condition has long elapsed. Since the time the building on the subject property was constructed, there have been a series of tenants who have occupied it, either in-part or in-full. At this time, the building is occupied by a single tenant, Chase Bank, operating pursuant to the Use Permit. The conditions are binding on the permittee, and “all future owners and possessors” of the property.

As noted above, Condition No. 38 was imposed in 2006. Design planning for the Aviation Boulevard at Artesia Boulevard Southbound to Westbound Right-Turn Lane Improvement Project began in 2016. City staff approached the current property owner to honor its commitment to dedicate the property, but the owner declined to dedicate it. In order to not lose grant funds for the overall Project and to avoid delays, the City filed an eminent domain action to acquire the property owner’s interests, if any, in the property. The property owner granted a temporary construction easement to the property, but reserved its asserted right for “just compensation” for the property.

In addition to requiring the dedication of the property needed for the widening and right-turn lane, Condition 38 mandates that “improvements shall be required” for the future widening and right-turn lane.

DISCUSSION:

Section 10.84.070.B.4 of the MBMC allows for periodic review of use permits to determine compliance with conditions of approval. Section 10.84.090.D allows for revocation of a use permit that is exercised in violation of conditions of approval, subject to any of the findings for revocation identified in Section 10.104.030.D.2. One of those findings is that the terms or conditions of approval of the permit have been violated.

As part of the design phase for the recently-constructed southbound Aviation Boulevard to westbound Artesia Boulevard right-turn lane, the City sought a temporary construction easement (TCE) from the property owner to facilitate the construction. During the preparation of legal documents for that TCE, the City became aware that the property owner had failed to dedicate the permanent right-of-way required as a condition of approval of the Use Permit. Since that time, the City has worked with the property owner, but the property owner has not fulfilled its obligations to dedicate and improve the property. Instead, it seeks just compensation for the property.

Given that staff’s efforts to obtain compliance with the conditions applied to the Use Permit for the property have been unsuccessful, staff recommends revocation of the Use Permit. If the Council were to revoke the Use Permit, the Use Permit would be rescinded and no operations could occur on the site. Moreover, the City would revoke any business license(s) issued for tenants of the property, including the current tenant (Chase Bank), and not issue any new business license or permit applications on the property until it is brought into conformance with the conditions of approval. If the Property Owner does not comply with the conditions of approval until after Use Permit revocation, a new Use Permit would need to be processed prior to occupancy being granted for the property.

CONCLUSION:

Staff recommends that the City Council direct staff to bring forward a resolution revoking the

Use Permit issued for the subject property as a result of noncompliance with the conditions of approval.

PUBLIC OUTREACH:

The nature of this item is specific to the property owner and has no direct impact on the public. However, because this item requires a public hearing to consider revocation of a previously-approved Use Permit, public hearing notices were mailed to all property owners and tenants within 500 feet of the subject property, and published in the Beach Reporter on November 22, 2023. Courtesy notices were sent to the attorney for the property owner.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed action for compliance with the California Environmental Quality Act (CEQA) and has determined that the project qualifies for a Class 21 categorical exemption pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) of the State CEQA Guidelines. Class 21 exemptions consist of “[A]ctions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency...” The proposed action would revoke a Use Permit issued by the City. Thus, no further environmental review is necessary.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Resolution No. 6055
2. PowerPoint Presentation

RESOLUTION NO. 6055

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A USE PERMIT FOR A 5,800 SQUARE FOOT RETAIL CENTER WHICH INCLUDES A CONVENIENCE STORE WITH 24-HOUR OPERATION AND ALCOHOL BEVERAGE LICENSE AT 1727 ARTESIA BOULEVARD

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council 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 pursuant to applicable law on July 12, 2006, to consider an application for a Use Permit for the property legally described as Lot 27 and 28 and that portion of Lots 29 and 30, Block 108, Redondo Villa Tract B, located at 1727 Artesia Boulevard in the City of Manhattan Beach.
- B. The application was filed on November 3, 2005. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant/representative for the Use Permit is Marks Architect. The property owner is Stuart Sackley.
- D. The proposed use is permitted in the CG (General Commercial) Zone subject to a Use Permit approval as the project exceeds more than 5,000 square feet of buildable floor area; more than 10,000 square feet of land area, and is requesting a new alcohol beverage license.
- E. An Initial Study was prepared in compliance with the provisions of the California Environmental Quality Act (CEQA). Based upon this study it was determined that the project is not an action involving any significant impacts upon the environment, and a Negative Declaration was prepared and is hereby adopted.
- F. 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.
- G. The Planning Commission made the following findings with respect to this application:
 - 1. The applicant requests approval to build a 5,800 square foot retail center which includes a 3,000 square foot convenience store which will operate 24-hours, 7-day a week with sale of beer and wine.
 - 2. The project is located in Area District I and is zoned (CG) General Commercial. The properties to the north are zoned single family residential; the property to the east (across Aviation Boulevard) is zone (CG) General Commercial; the properties to the south are located in the City of Redondo Beach, and the property to the west is zoned (CL) Local Commercial.
 - 3. The General Plan designation for the property is General Commercial.

Use Permit

- 1. The proposed project is located within the (CG) General Commercial district. The proposed would replace an former gasoline service station and the business is in accord with the objectives of this title, and the purpose of the district in which it is located since the project is a commercial zone consistent with Section 10.16.010 of the Manhattan Beach Zoning Code which states that the district is intended to provide opportunities for commercial retail uses for a full range of retail and service businesses.



Certified to be a true copy of said document on file in my office.

TA

City Clerk of

- 2. The proposed one-story retail building poses no detrimental effects to the public health, safety, or welfare of persons residing or working on the proposed project site, or to the adjacent or neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city as the site continues to operate as a commercial retail use. The new use is intended to provide a better variety of product and services to the community.

The proposed location of the use and the proposed conditions under which it will be operated or maintained will be consistent with the General Plan, since the project site is classified as General Commercial which allows for a full range of retail and service businesses.

The General Plan of the City of Manhattan Beach poses certain goals and policies, which reflect the expectations and wishes of the City, with respect to land uses. Specifically, the project is consistent with the following Goals of the General Plan:

Goal LU-6.1: Support and encourage small businesses throughout the City.

Goal LU-6/2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.

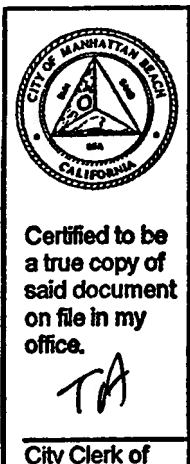
Goal LU-6.3: Recognize the need for a variety of commercial development types and designate areas appropriate for each. Encourage development proposals that meet the intent of these designations.

Goal LU-8.1: Ensure that applicable zoning regulations allow for commercial uses that serve a broad market area, including visitor-serving uses.

- 3. The proposed retail use on an existing commercial site will be in compliance with applicable provisions of the (CG) General Commercial zone, and the required notice, hearing and findings for the Use Permit.
 - 4. The proposed change in use from a gasoline service station to a retail use will not adversely impact nearby properties. The proposed change to the retail use will require a slight increase to the parking demand in the General Commercial zone however it will be accommodated as part of the proposed use. It is not anticipated that the proposed retail use will exceed the capacity of public services and facilities. The Building Division is not opposed to approval of subject request provided that they adhere to all disabled parking requirements and path of travel access, and that restroom compliance is met with current applicable Codes. Minor comments from the Building Division, Fire Department, Police Department, Engineering and Public Works Department will be addressed during regular plan check.
- H. This Resolution upon its effectiveness constitutes the Use Permit for the subject site and rescinds the previously approved Resolution No. BZA 89-34 for the gasoline service station/mini-market/self-service car wash.

SECTION 2. The City Council of the City of Manhattan Beach hereby APPROVES the subject Use Permit subject to the following conditions (* indicates a site specific condition):

- 1.* The project shall be in substantial conformance with the submitted plans and project description submitted to, and approved by the Planning Commission on July 12, 2006. Any other substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
- 2.* The project will provide 25 standard parking spaces; 2 compact spaces and 2 disabled parking spaces for a total of 29 on-site spaces.



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Convenience Store

- 3.* No tables and chairs shall be placed on the exterior of the building. No outdoor dining is permitted. Any future change from retail uses shall be reviewed by the Traffic Engineer for consistency with the approved Parking Demand Study to ensure compliance with parking requirements.
- 4. The management of the retail store shall police the property and all areas immediately adjacent to the businesses during the hours of operation to keep it free of litter.
- 5. The operator of the retail store shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject business.
- 6.* The property owner shall prohibit employees from parking personal vehicles on the surrounding public streets. Owners and employees must park on-site.
- 7.* All signs shall be in compliance with the Sign's Sign Code. The proposed roof top sign located atop the tower element is a prohibited sign that is not permitted. A sign program must be submitted to the Community Development Department for review and approval prior to the issuance of a building permit.
- 8.* The applicant shall submit a lighting and photometric plan which shows the location of the proposed light pole and maximum foot candles prior to the issuance of a building permit. These plans shall be in compliance with all provisions of the parking lot lighting regulations. Due to the proximity of the proposed project to the residential properties to the north, the maximum pole heights shall not exceed 20 feet.
- 9. Any outside sound or amplification system or equipment is prohibited.
- 10.* To preserve peace and quiet, no Solid Waste shall be collected between the hours of 6:00 p.m. and 7:30 a.m. Site and route-specific exemptions may be made to this limitation by the City's Director of Public Works.

Beer and Wine License

- 11.* The hours of operation for the convenience store are 24-hours, 7-days a week with alcohol beverage sales limited between the hours of 6:00 a.m. to midnight.
- 12. The property owner shall obtain approval from the Alcoholic Beverage Control Board and shall be in compliance with all conditions of approval.
- 13.* The sale of beer and wine shall be for off-sale consumption shall not be advertised on the exterior of the building. No on-site consumption of alcohol beverage shall be permitted.

Operational Restrictions

- 14.* No outdoor storage shall be permitted on the subject site at any time unless used for construction purposes and approval by the Community Development Department.
- 15. Prior to issuance of building permit, a construction management plan, relative to construction equipment and storage container(s), shall be provided and approved by the Community Development Department.
- 16.* Delivery hours for all uses shall take place between 7:30 a.m. and 6:00 p.m., Monday through Friday and 9:00 a.m. and 6:00 p.m., Saturday and no deliveries allowed on Sunday and Holidays.

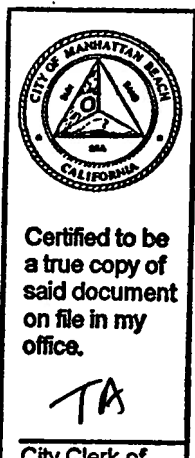


Certified to be
a true copy of
said document
on file in my
office.

TA

Public Works

17. All landscape irrigation backflow devices must meet current City requirements for proper installation.
18. No discharge of construction wastewater, building materials, debris, or sediment from the site is permitted.
19. A property line cleanout must be installed on the sanitary sewer lateral. See City Standard Plan ST-5. Cleanout must be added to the plumbing plan.
20. A backwater valve is required on the sanitary sewer lateral if the discharges from fixtures with flood level rims are located below the next upstream manhole cover of the public sewer. See City Standard Plan ST-24. Must be shown on the plan is applicable.
21. If any existing sewer lateral is used, it must be televised to check its structural integrity. The tape must be made available or review by the Public Works Department. The Public Works Department will review the tape and determine at that time if the sanitary sewer lateral needs repairing, replaced, or that it is structurally sound and can be used in its present condition. The lateral must not be cleaned before it is video taped.
22. A mop sink must be installed and shown on the plumbing plan.
23. Commercial enterprises must comply with the National Pollution Discharge Elimination System (NPDES) clean water requirements. Discharge of mop water, floor mat washing, trash can cleaning, and washing out trash enclosures into the street or storm drain system is prohibited. MBMC 5.84.060, 5.84.090. Project must meet SUSMP requirements. A suggested BMP for this site would be a system designed to direct the first flush runoff into the landscaping and then to the storm drain system.
24. An unused water or sanitary sewer laterals must be shown on the plans and abandoned at the City main.
25. All trash enclosures shall be enclosed, have a roof, built in such a manner that stormwater will not enter, and a drain installed that empties into the sanitary sewer system. Floor drain or similar traps directly connected to the drainage system shall be provided with an approved automatic means of maintaining their water seals. See 1007.0, Trap Seal Protection in the Uniform Plumbing Code. Contact the City's refuse contractor for sizing of the enclosure. Drawing of the trash enclosure must be on the plan, and must be approved by the Public Works Department before a permit is issued. See Standard Plan ST-25.
26. Commercial establishments are required, by Municipal Code 5.24.030 (C)(2) to have a sufficient refuse and recycling storage space to enclose a commercial lift container(s). The refuse storage space or facility must be screened from public view and be either constructed within the building structure or in a screened enclosure on private property. Please read the Code section for further clarification.
27. Sidewalk, driveway, curb, and gutter repairs or replacement must be completed per Public Works specifications. See City Standard Plans ST-1, ST-2 and ST-3. The plans must have a profile of the driveway, percent of slope on driveway, and driveway elevations.
28. Weekly parking lot sweeping shall be required.
29. A disabled access ramp must be installed on the public sidewalk at the corner. See City Standard ST-9. Ramp must be shown on plans.
30. * The sidewalk must be replaced from the west property line on Artesia Boulevard to the north property line on Aviation Boulevard and shown on the plans.



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- 31. Backflow preventers for fire and domestic water services must be installed per Public Works Department requirements.
- 32. Water meters shall not be placed in the area of the driveway approach. Water meter placement must be shown on the plans.
- 33. If the water meter box is replaced, it must be purchased from the City, and must have a traffic rated lid if the box is placed in the driveway.
- 34. Erosion and sediment control devices BMP's (Best Management Practices) must be implemented around the construction site to prevent discharges to the street and adjacent properties. BMP's must be identified and shown on the plan. Control measures must also be taken to prevent street surface water entering the site.
- 35. A new storm water, nuisance water, etc. drain lines installed within the street right-of-way must be constructed of ductile iron pipe. Drains must be shown on plans.
- 36. Before the utility pole located at the west corner of the lot on Artesia Boulevard can be relocated. Approval from PPIC and City Council and a building permit must be obtained.
- 37. Plan holder must have the plans rechecked and stamped for approval by the Public Works Department before the building permit is issued.
- 38. An 8-foot dedication and improvements shall be required on Aviation Boulevard for future widening of the right-of-way for an additional right-hand turn pocket for traffic traveling west onto Artesia Boulevard to the satisfaction of the City Engineer.

Building Division

- 39. All paths of travel areas for the remodel/addition shall meet the Disabled Access requirements.
- 40. All work shall comply with the 2001 California Codes which includes: 1999 National Electrical Code, 1997 Uniform Building Code, 2000 Uniform Mechanical Code and Uniform Plumbing Code.

Fire Department

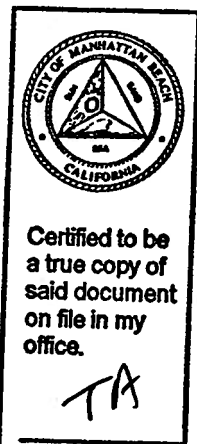
- 41. All food heat-processing equipment that produces grease-laden vapors shall have hood, duct and fire extinguishing systems according to 2001 California Fire Code Section 1006.

Procedural

- 42. Pursuant to Public Resources Code Section 21089 (b) and the Fish and Game Code Section 711.4 (c), the project is not operative, vested, or final until the requiring filing fees are paid.

Assignment.

- 43. The permit may be assigned to any qualified person(s) subject to submittal of the following information to the Director of Community Development:
 - a. A complete application and application fee as established by the City's Fee Resolution
 - b. An affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
 - c. Evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
 - d. The original permittee's request to assign all rights to undertake the development to the assignee; and
 - e. A copy of the original permit showing that it has not expired.

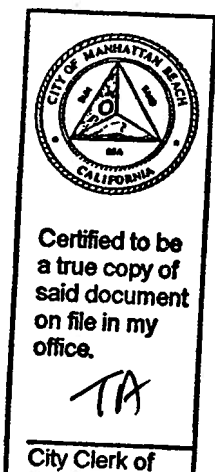


- 44. *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.
- 45. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBCM Section 10.100.030 have expired.
- 46. All provisions of the Use Permit are subject to review by the Community Development Department six (6) months after occupancy and yearly thereafter.
- 47. 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.
- 48. At any time in the future, the Planning Commission or City Council may review the Planned Development Amendment approval for purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.
- 49. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

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.

SECTION 4. This resolution shall take effect immediately. The City Clerk shall make this resolution readily available for public inspection within thirty (30) days of the date this resolution is adopted.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and thenceforth and thereafter the same shall be in full force and effect.



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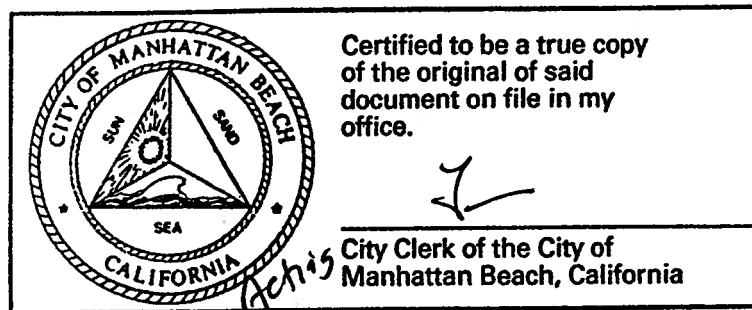
PASSED, APPROVED AND ADOPTED this 15th day of August, 2006.

Ayes: Aldinger, Tell and Mayor Ward.
Noes: None.
Absent: Fahey.
Abstain: Montgomery.

/s/ Mitch Ward
Mayor, City of Manhattan Beach, California

ATTEST:

/s/ Terri Aliabadi
City Clerk (Acting)



USE PERMIT REVOCATION 1727 ARTESIA BOULEVARD

December 5, 2023

City Council Meeting



Note: This PowerPoint presentation is intended solely as a visual aid to an oral staff presentation of an agenda report topic. In the event of any differences between the presentation and the agenda report, the information in the agenda report prevails.

BACKGROUND

Original Approval

- Master Use Permit
 - Multi-tenant commercial project greater than 5,000 sq. ft.
 - Multi-tenant commercial project on site greater than 10,000 sq. ft.
 - Alcohol license (not presently utilized)



BACKGROUND

Original Approval (cont.)

- Approved August 15, 2006
- Included Conditions of Approval
 - Dedication and improvement of right-of-way
 - Eight feet along Aviation Blvd. frontage
 - Right-turn lane (SB Aviation Boulevard to WB Artesia Boulevard)



BACKGROUND

Current Status

- Project constructed in 2009
- Right-of-way dedication has not occurred
- SB Aviation to WB Artesia right-turn lane constructed
 - Design began 2016
 - Construction began 2021
 - Reliant on Temporary Construction Easement (TCE)
 - Cannot release TCE until dedication recorded



CONDITION COMPLIANCE

Authority

- MBMC Section 10.84.070.B.4
 - Authorizes periodic review for compliance
- MBMC Section 10.84.090.D
 - Allows revocation if exercised in violation of conditions
 - Subject to findings in 10.104.030.D.2
 - Conditions of Approval have been violated



ENVIRONMENTAL REVIEW

- Categorical Exempt
 - Section 15321 of State CEQA Guidelines
 - Enforcement Actions by Regulatory Agencies



RECOMMENDATION

- Conduct the Public Hearing
- Adopt a resolution revoking the Use Permit



USE PERMIT REVOCATION 1727 ARTESIA BOULEVARD

December 5, 2023

City Council Meeting



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CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Mark Leyman, Parks and Recreation Director
Melissa McCollum, Senior Recreation Manager
Kari Bell, Senior Recreation Supervisor

SUBJECT:

Consideration of a Juneteenth Community Celebration in 2024 and, if Approved, Appropriate \$30,000 from the General Fund (Parks and Recreation Director Leyman).

(Estimated Time: 75 Min.)

- A) DISCUSS AND PROVIDE DIRECTION**
 - B) APPROPRIATE FUNDS**
-

RECOMMENDATION:

Staff recommends that the City Council: a) discuss and provide direction on proposed plans for a Juneteenth Community Celebration in 2024; and b) if approved, appropriate \$30,000 from the General Fund.

FISCAL IMPLICATIONS:

If City Council approves the recommended Juneteenth Community Celebration for 2024, staff recommends an appropriation of \$30,000 from the unreserved General Fund balance to facilitate the event(s).

BACKGROUND:

Juneteenth (June 19) is the oldest known celebration to commemorate the end of slavery in the United States. The holiday was first celebrated in Texas where on June 19, 1865, enslaved people finally received news from Union soldiers that they had been set free by the Emancipation Proclamation more than two years earlier. Juneteenth was recognized as a federal holiday in 2021.

In past years, residents and visitors informally gathered at Bruce's Beach Park to celebrate

Juneteenth. Prior to Juneteenth this year, the City received a number of requests from community members to host a Juneteenth Celebration at Bruce's Beach Park.

On July 17, 2018, the City Council approved the City's Special Events Policy which creates guidelines and procedures by which outside organizations apply to hold special events in public spaces. Last year, the City Council considered a request to update the Special Events Policy to remove the exclusion of Bruce's Beach and the 8th Street and Larsson Street Parkettes to allow for permitted events in those locations. The City Council chose not to update the Special Events Policy, so only the City may host organized events at those locations.

On April 18, 2023, City Council directed staff and the Parks and Recreation Commission to return to City Council with a robust plan to hold a citywide acknowledgement or celebration of Juneteenth in 2024 and to consider several possible locations for the event(s).

DISCUSSION:

Creation of a robust plan for a 2024 Juneteenth celebration in Manhattan Beach required expansive community outreach, including informal conversations with a variety of stakeholders, inclusive community meetings, and a survey with 1,730 responses.

At a Listening Session in July 2023, attendees learned about the history and significance of Juneteenth and began sharing their ideas for a community celebration. Some of the rationale for a Juneteenth celebration discussed by participants included:

1. Cultural Significance: Observing Juneteenth recognizes the struggles and triumphs of African Americans, contributing to a greater understanding of the nation's history and promoting cultural awareness.
2. Community Building: Hosting a Juneteenth celebration provides an opportunity for residents to come together, reinforcing the values of equity and unity.
3. Education and Awareness: The celebration can include educational components, promoting a deeper understanding of African American history among residents.
4. Economic Impact: The celebration can stimulate business activity.
5. Symbol of Inclusivity: A citywide Juneteenth celebration sends a message of inclusivity, demonstrating a commitment to valuing and respecting the diversity of residents, business owners, and visitors.

Possible activities suggested by participants at the first community meeting included:

1. Juneteenth Fair with music, art, food, and vendors to celebrate the richness of African American culture
2. Educational component (speaker series, open forums and panels, and satellite venues) to highlight the history and significance of Juneteenth
3. Family-friendly activities to include children and families, such as storytelling, games, and art projects
4. Special programs at schools
5. Partnerships with local schools, organizations, and businesses

Bruce's Beach and Polliwog Park were the top locations suggested for events. Several

participants also emphasized the importance of including African Americans in all aspects of event planning and implementation of a Juneteenth celebration in Manhattan Beach.

A Juneteenth survey open from July-October 2023 gathered additional information from 1,730 respondents, including the highlights noted below. 72.66% of all survey respondents identified as Manhattan Beach residents.

Do you support a 2024 community celebration of Juneteenth in Manhattan Beach?

Yes	No
76.57%	23.43%

How likely are you to attend?

Likely	Somewhat Likely	Not Likely
18.12%	46.34%	35.54%

What should a Juneteenth celebration include?

Vendors	1st Choice
Visual Arts	2nd Choice
Performing Arts	3rd Choice

Four hundred survey respondents do not support a Juneteenth celebration in Manhattan Beach. Common reasons provided include a preference to not spend City money on the celebration, a preference to celebrate other national holidays instead, and observations about the racial makeup of Manhattan Beach (small percentage of black or African American residents and business owners).

Over 1,300 survey respondents do support a Juneteenth celebration in Manhattan Beach. Common reasons provided include the opportunity to celebrate freedom and highlight African American history, contributions, community members, artists, business owners, and traditions.

At the request of a community member at the Parks and Recreation Commission Meeting on November 27, 2023, results from only the 289 survey respondents prior to Mira Costa's participation are outlined below. 82.70% of these survey respondents identified as Manhattan Beach residents.

Do you support a 2024 community celebration of Juneteenth in Manhattan Beach?

Yes	No
46.85%	53.15%

How likely are you to attend?

Likely	Somewhat Likely	Not Likely
31.01%	10.80%	58.19%

What should a Juneteenth celebration include?

Performing Arts	1st Choice
Speaker Series	2nd Choice
Visual Arts	3rd Choice

A second community meeting in November included presentations about the survey results and recent Juneteenth celebrations in El Segundo and Pasadena as well as additional conversation about plans for a Manhattan Beach celebration in 2024. Attendees, including members of Mira Costa’s Black Scholars Union Club, enthusiastically supported the three recommendations below for a 2024 Juneteenth celebration in Manhattan Beach.

1. Juneteenth Festival at Polliwog Park on Saturday, June 22, 2024, including music, food, and vendors
2. Community Processional beginning at Bruce’s Beach Park on Wednesday, June 19, 2024, including opening remarks, gospel music, and a short walk to the sand or ocean edge
3. Use of a Consultant/Event Planner

The Parks and Recreation Commission also voted to support these three recommendations at their meeting on November 27, 2023.

The total estimated costs for both events is not to exceed \$30,000. The City Council may appropriate money from the General Fund to cover the expenses.

CONCLUSION:

Staff recommends that the City Council: a) discuss and provide direction on proposed plans for a Juneteenth Community Celebration in 2024, including a Juneteenth Festival at Polliwog Park, a Community Processional beginning at Bruce’s Beach Park, and use of a consultant/event planner; and b) if approved, appropriate \$30,000 from the General Fund to facilitate the events.

If approved, staff will build in community evaluations for the 2024 Juneteenth events in anticipation of returning to City Council for direction on future celebrations.

PUBLIC OUTREACH:

The significance of Juneteenth and ideas for a community celebration in 2024 were discussed at community meetings on July 22, 2023 and November 4, 2023. Additional input was gathered by Parks and Recreation commissioners and City staff in many individual and small group discussions and via a survey with 1,730 responses.

The Parks and Recreation Commission discussed this item at their meeting on November 27, 2023.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

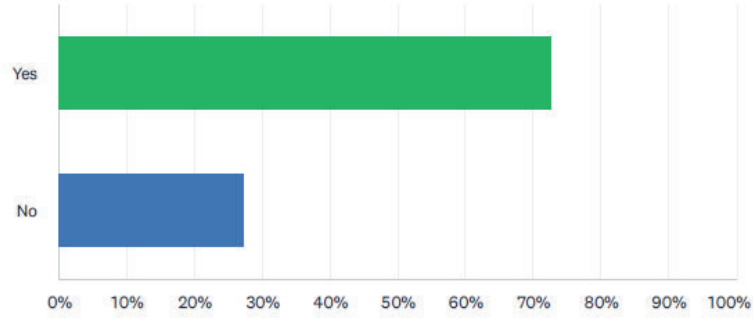
ATTACHMENTS:

1. Juneteenth Survey Results
2. PowerPoint Presentation

Juneteenth Survey

Q1 Are you a Manhattan Beach resident?

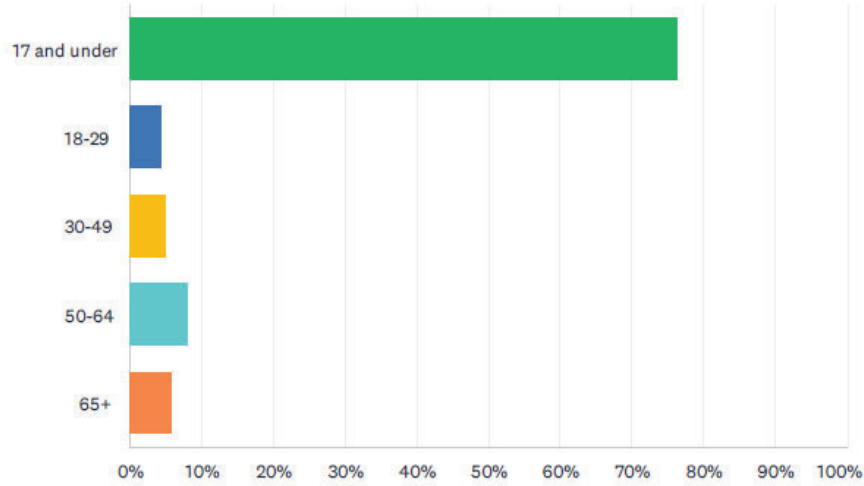
Answered: 1,730 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	72.66%	1,257
No	27.34%	473
TOTAL		1,730

Q2 Tell us your age (even though we know it is a state of mind).

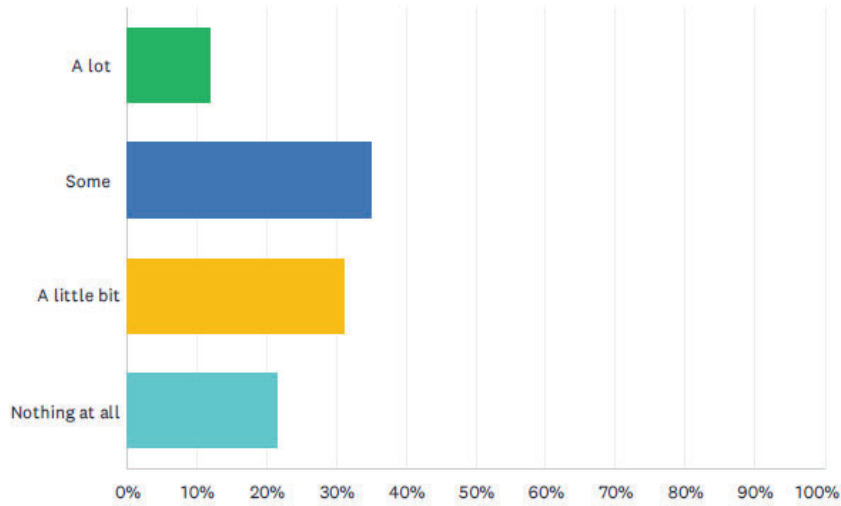
Answered: 1,726 Skipped: 5



ANSWER CHOICES	RESPONSES	
17 and under	76.36%	1,318
18-29	4.58%	79
30-49	5.21%	90
50-64	8.11%	140
65+	5.74%	99
TOTAL		1,726

Q3 How much do you know about the Juneteenth holiday*?

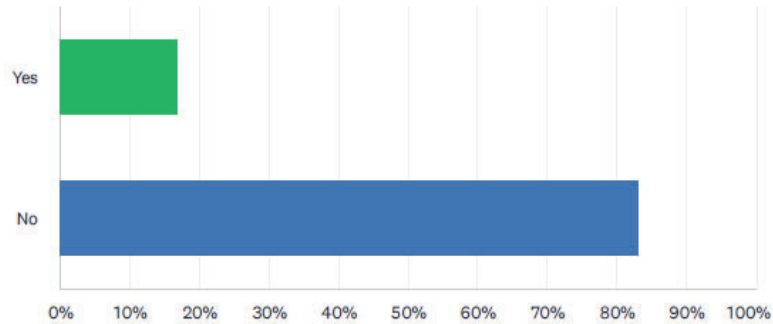
Answered: 1,729 Skipped: 2



ANSWER CHOICES	RESPONSES	
A lot	11.97%	207
Some	35.22%	609
A little bit	31.17%	539
Nothing at all	21.63%	374
TOTAL		1,729

Q4 Do you celebrate Juneteenth?

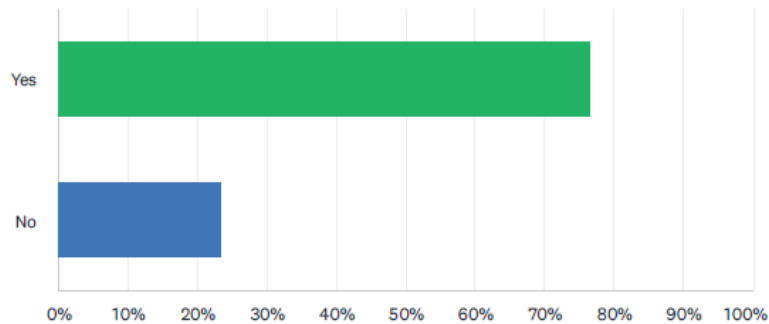
Answered: 1,724 Skipped: 7



ANSWER CHOICES	RESPONSES	
Yes	16.82%	290
No	83.18%	1,434
TOTAL		1,724

Q5 Do you support a 2024 community celebration of Juneteenth in Manhattan Beach?

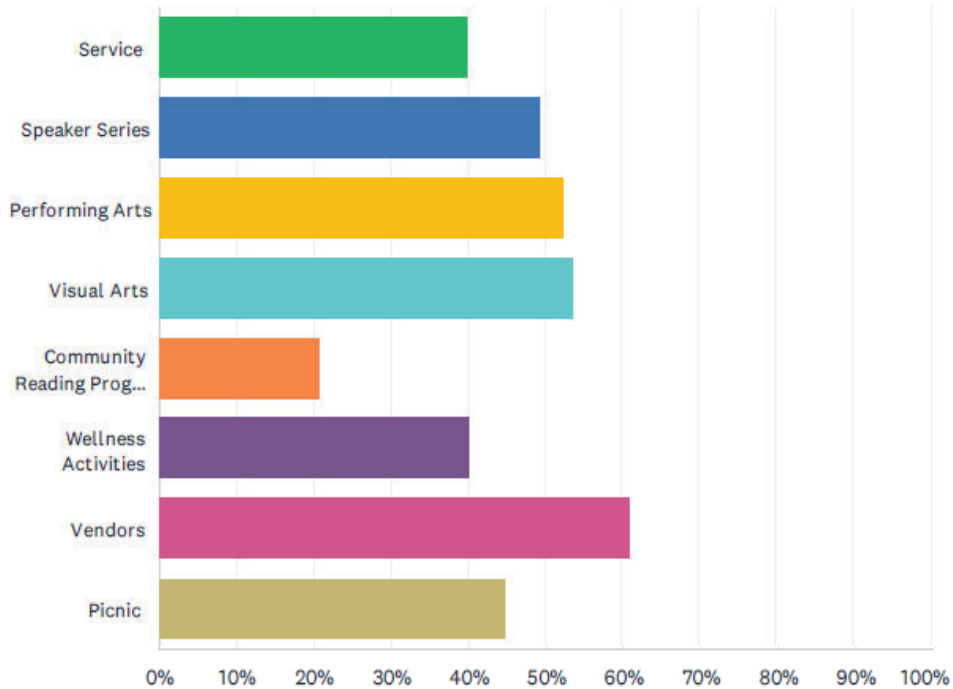
Answered: 1,707 Skipped: 24



ANSWER CHOICES	RESPONSES	
Yes	76.57%	1,307
No	23.43%	400
TOTAL		1,707

Q6 What should a Manhattan Beach Juneteenth celebration include? (Mark all that apply.)

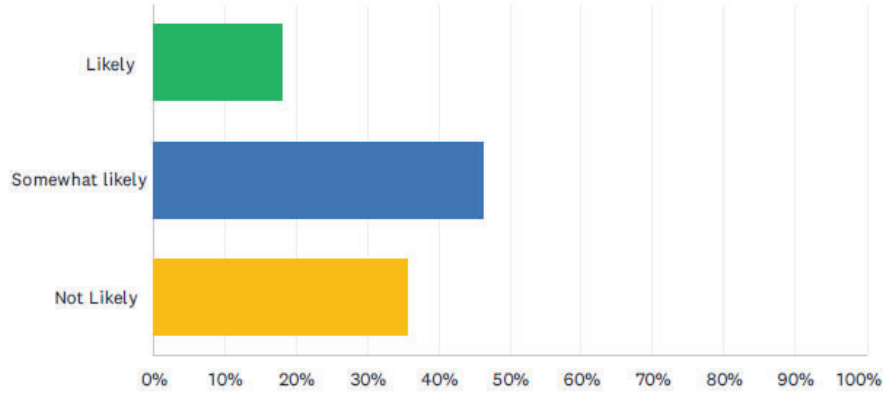
Answered: 1,607 Skipped: 124



ANSWER CHOICES	RESPONSES	
Service	40.07%	644
Speaker Series	49.47%	795
Performing Arts	52.52%	844
Visual Arts	53.83%	865
Community Reading Program (One City, One Book)	20.78%	334
Wellness Activities	40.20%	646
Vendors	61.05%	981
Picnic	45.05%	724
Total Respondents: 1,607		

Q7 How likely are you to attend a Manhattan Beach Juneteenth celebration?

Answered: 1,722 Skipped: 9



ANSWER CHOICES	RESPONSES	
Likely	18.12%	312
Somewhat likely	46.34%	798
Not Likely	35.54%	612
TOTAL		1,722



Juneteenth Community Celebration

December 5, 2023
City Council Meeting
December 5, 2023



Note: This PowerPoint presentation is intended solely as a visual aid to an oral staff presentation of an agenda report topic. In the event of any differences between the presentation and the agenda report, the information in the agenda report prevails.

Agenda

1. City Council Direction
2. Juneteenth Ad Hoc Committee Creation
3. Listening Session
4. Survey
5. Community Meeting
6. Recommendations

Listening Session – July 2023



Survey Results – November 2023



1,730
TOTAL SURVEYS
72.66%
MB RESIDENTS

WHAT SHOULD A JUNETEENTH CELEBRATION INCLUDE?

VENDORS	1st Choice
VISUAL ARTS	2nd Choice
PERFORMING ARTS	3rd Choice

DO YOU SUPPORT A 2024 COMMUNITY CELEBRATION OF JUNETEENTH IN MB?

YES	NO
76.57%	23.43%

HOW LIKELY ARE YOU TO ATTEND?

LIKELY	SOMEWHAT LIKELY	NOT LIKELY
18.12%	46.34%	35.54%

Community Meeting – November 2023



Pasadena/El Segundo



Manhattan Beach

JUNETEENTH 2024 - FOR YOUR CONSIDERATION

Festival at Polliwog Park, including music, food, and vendors

Community Processional beginning at Bruce's Beach

Consultant/Event Planner

(Not to Exceed) \$30,000 Budget





CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
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STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Rachel Johnson, Police Chief

Lisa Jenkins, Human Resources Director

SUBJECT:

Update Regarding Police Department and Citywide Staffing and Recruitment, and Consideration of a Resolution Approving Various Recruitment and Retention Incentives (Police Chief Johnson and Human Resources Director Jenkins).

(Estimated Time: 30 Mins.)

ADOPT RESOLUTION NO. 23-0165

RECOMMENDATION:

Staff recommends that the City Council receive an update on Police Department staffing, and Citywide and Police Department recruitment efforts, and approve the attached resolution which authorizes modifications to the City's recruitment and referral bonus policy and other recruitment and retention incentives.

Staff further recommends that the City Council review the information provided regarding recruitment incentive enhancements, and provide direction regarding any requested modifications to the recruitment incentive program.

FISCAL IMPLICATIONS:

The annualized cost of the proposed recruitment and retention incentives represents both hard costs and soft costs, as some of the items, such as enhanced leave banks or an additional day off, can amount to a productivity cost versus a direct cash-out. In lieu of making an estimate of the hard costs versus soft costs, staff is providing the estimated costs with the leave valued at 100%, which is the most conservative way to illustrate the fiscal implications. This results in a total estimated value of the proposed recruitment and retention incentives of \$582,521 of this amount \$376,929 is a one-time cost for the one-time leave bank of hours for sworn police. Any portion of these costs that result in an increased payment (for example, leave time or overtime)

will be absorbed in salary savings.

The changes to the recruitment bonus for hard-to-fill positions and the referral incentive for non-Police Department employees who refer Police Officer candidates are difficult to quantify as they will depend on the number of recruitments that are deemed hard-to-fill and number of non-Police Department employees who refer successful Police Officers. The cost is \$4,032 per referral for the referral incentive and up to 10% of the annual salary for the recruitment bonus for hard-to-fill positions. These costs will be paid from salary savings as the costs are incurred.

BACKGROUND:

The City Council has been engaged in ongoing discussions regarding Police Department recruitment for more than two years. Most recently, in February 2023, the City Council authorized an increase in Police Department staffing by 10 employees, including seven sworn Police Officers and three civilian (professional) staff positions. Sworn police employees include individuals who are trained in law enforcement and have the authority to engage in law enforcement activities, including arrest power, and are authorized to carry a firearm and badge. Civilian employees, used interchangeably with “professional staff,” describe employees who provide administrative, technical and professional public safety support functions, such as records, jail, traffic control, and parking enforcement, as well as analytical and administrative support.

The following represents the changes to the position allocation approved in February 2023:

Position	Full-Time Employees (Previous)	Full-Time Employees (Approved 2023)
Sworn* Employees		
Police Chief	1.0	1.0
Police Captain	2.0	2.0
Police Lieutenant	5.0	5.0
Police Sergeant	11.0	11.0
Police Officer	46.0	53.0
Total:	65.0	72.0
Civilian Employees		
Executive/Administrative/Office Asst.	6.0	7.0
Civilian Supervisor/Managers	1.0	2.0
Police Records Staff	10.0	10.0
Community Services Officers	12.0	12.0
Police Services Officers	7.0	7.0
Crime Analyst	1.0	1.0
Park Services Enforcement Officer	1.0	1.0
Technology/Systems Support	2.0	2.0
Property and Evidence Officer	1.0	1.0
Senior Management Analyst	1.0	1.0
Background Investigator	0.0	1.0
Total	42.0	45.0

Police Department Total: 107.0 117.0

The approval of the additional hires followed prior City Council discussions about the over-hiring of Police Officers at the October 18, 2022, meeting, a discussion of hiring contract armed security at the November 1, 2022, meeting, and a discussion of contracting with other law enforcement agencies for resources at the December 20, 2022, meeting.

At the City Council meeting of October 18, 2022, the City Council also discussed Fire Department staffing levels, and authorized an increase in Fire Department staffing by three full-time equivalent (FTE) positions, including increasing the emergency response/suppression staffing by three employees and staffing the fire prevention function with civilian (non-sworn) staff. As discussed in the Fire Department staffing update provided to the City Council at the November 21, 2023, meeting, the Fire Department realized full staffing levels in August 2023, and is looking for additional opportunities to enhance staffing and service to the community.

Previously, in 2021, the City Council raised the issue of additional recruitment incentives for incoming Police Officers, which were addressed in a September 21, 2021 staff report ([City of Manhattan Beach - File #: 21-0298 \(legistar.com\)](#)). In February 2023, the City Council gave direction to increase the dollar amount of the recruitment incentive for incoming lateral Police Officers and the referral bonus for current Police Department employees who refer successful Police Officer candidates. The City Council also approved expanding the recruitment incentive to Police Officer Trainee candidates, at the Police Chief’s discretion.

The following summarizes the approved changes to the recruitment and referral bonuses:

Type of Incentive	Pre-2023 Amount	Approved 2/21/23
Recruitment Incentive (Cash hiring bonus)	\$3,000	\$2,908-\$11,783 (Range of 3-10% of annual salary)
Referral Bonus (for PD employees who refers a successful Police Officer candidate)	\$2,000	\$4,032 (10% of the annual Police Academy Trainee salary)

Throughout the City, there has been a significant increase in the number of positions filled in recent years. The following chart illustrates the number of full-time positions filled by fiscal year:

Full Time Positions filled (per Fiscal Year)

Fiscal Year	New Hire	Promotion*	Internal Appt.**	Total
2017-2018	8	4	7	19
2018-2019	12	8	4	24
2019-2020	11	7	5	23
2020-2021	16	9	2	27
2021-2022	36	23	10	69
2022-2023	32	34	5	83
2023-2024***	20	4	5	28

***Actual hires through November 27, 2023

* Promotions include employees in full time positions promoted to other positions.

**Internal appointments include part-time employees promoted to full time.

Specifically within the Police Department, there have been 23 full-time sworn police hires since the beginning of fiscal year (FY) 2022 (July 1, 2021). There have also been 10 internal promotions. Outside of sworn staffing, there have been 12 new hires within the same time period, including 19 promotions or internal appointments. These 19 promotions include three employees moving from civilian positions to Police Academy Trainees and four academy trainees becoming Police Officers.

Due to the 10 new positions approved last fiscal year, along with regular turnover, the current vacancy rates within the Police Department include 13 vacancies. Eight of these vacancies are sworn police officers. Throughout the City, the vacancy rate is currently 8.61%, including the four new Public Works positions approved on November 7, 2023.

DISCUSSION:

Recruitment in the law enforcement community in general has become more and more difficult over the past several years. In response to the competition for talent, many regional agencies have attempted large cash bonuses and other incentives for new Police Officer employees in an effort to decrease their vacancy rates and help recruitment and retention. Officer retention and appreciation has also been the subject of some local agency initiatives. Last year, the City of Beverly Hills opened up their contract to provide a 14% increase to officers ([Council Approves 14% Salary Raise for Police - Beverly Hills Courier](#) <https://beverlyhillscourier.com/2022/05/26/council-approves-14-salary-raise-for-police/>) and the City of Torrance was in the news for providing enhanced recruitment and retention incentives ([Torrance Police Department tackles staffing shortage with new incentives Daily Breeze](#) [https://www.dailybreeze.com/2023/01/14/torrance-police-department-tackles-staffing-shortage-with-n](https://www.dailybreeze.com/2023/01/14/torrance-police-department-tackles-staffing-shortage-with-new-incentives/)ew-incentives/). Other agencies have offered new hire “signing bonuses” of close to \$50,000 or more per new hire. While some of these attempts have succeeded, they often overlook the issue of employee morale and retention of existing officers. If not considered holistically, these types of incentives can negatively impact morale for recent or prior hires who did not receive the benefit of such cash incentives. In addition to continuing to recruit high quality officers, a focus on promoting employee retention and implementing programs that demonstrate appreciation for existing employees is important.

Additionally, workplace expectations and the perquisite landscape have changed significantly in recent years, particularly since the pandemic, with both public and private sector employers adding benefits such as paid parental leave, flexibility in work hours and location, and greater amounts of annual leave. Generally speaking, public agencies are finding it more difficult to compete against private sector flexibility and perks, while also competing against one another for scarce talent.

With the City specifically, many factors have contributed to an increased volume of recruitments and an increased number of positions filled in the past several years. Following relatively stable staffing during the pandemic, the City experienced the impacts of delayed resignations and retirements beginning in 2021, which included an early retirement incentive offered to City employees. The number of employee resignations coming out of the pandemic was 30 in FY 2021-2022, which represents approximately 10% of the workforce. Prior to the pandemic, the

average number of annual resignations had been 10 per year. While retirements and resignations have provided opportunities for reorganization and promotion, they have also resulted in a loss of institutional knowledge, with many new and internal employees recently appointed to their positions. The increase in promotions necessitates recruitments to fill behind the positions. Further, the City staffing levels have increased by 32 full-time positions in the past two fiscal years, which reflect primarily the increase to public safety staffing discussed above and enhancements to other core City services, such as the insourcing of pressure washing and maintenance approved at the November 7, 2023 meeting.

Despite the increased recruitment demands, the City has been able to fill most of the vacancies over the past few years. However, some positions have remained more difficult than others to fill, including Police Officers, police support staff, and specialized technical positions across other City departments. As of November 21, 2023, 43.4% of the workforce has been employed with the City for 4 years or less. Further, 60 employees have been promoted into their positions since the beginning of fiscal year 2022, many into supervisory and management positions. This workforce composition necessitates both a focus on employee development and high importance on employee retention throughout the City and particularly within the Police Department.

As it relates to Police Officer hiring, the City hires both Lateral/Academy Graduate candidates (laterals) as well as Police Academy Trainee candidates (PATs or trainees) to become Police Officers. Lateral candidates are currently working as Police Officers in other organizations and academy graduate candidates have attended a police academy but do not yet have the required agency experience. Finally, trainee candidates are entry-level employees who do not yet have training and experience in law enforcement, and the City sends them to a police academy (approximately six months in duration). In addition to the testing (written exam, physical agility test, and interview), all Police Officer candidates are subjected to a detailed and comprehensive background investigation, the standards for which are set by the California Commission on Peace Officer Standards and Training (POST).

As it relates specifically to Police Department and Police Officer recruitment, staff has implemented or is in the process of implementing modifications to recruitment and selection processes, enhancements to long-range recruitment programs, and expanding the qualified applicant pool. The City continues to test monthly for Police Officer applicants, and is continually evaluating opportunities to enhance and streamline hiring, and expand recruitment and marketing efforts. Recruitment and retention programs considered or implemented have the goal of enhancing the applicant pool and recruitment efforts, without compromising the quality of applicants. Despite the challenges outlined above with regard to hiring police officer applicants, the Police Department has not lowered their selection standards.

Specifically, the Police Department has been looking at expanding programs that enhance awareness of and positive association with the Manhattan Beach Police Department, and begin career interest early. The Police Department has and continues to hire individuals who first began their association with the Manhattan Beach Police Department through the high school explorer program. This program is currently in effect, with outreach occurring in middle and high schools. Additionally, the Department is currently recruiting for college interns and establishing a "future of policing" scholarship to enhance name recognition, encourage law enforcement

careers, and promote positive relations with criminal justice programs.

Also underway are initiatives designed to improve the applicant pool, remove barriers to employment, and allow more candidates an opportunity to successfully complete the process. Staff in Police and Human Resources Department are continuously evaluating new ways to advertise and target recruitment for potential candidates (e.g. billboard advertisement, veterans and military associations and career fairs). The Department previously required Police Officer Candidates to pass all components of the physical agility test prior to progressing in the hiring process. This has the potential for otherwise desirable candidates to test and be processed at other agencies as soon as they are able to successfully pass that component. As a result, the City will miss out on qualified candidates who can ultimately pass all required components.

To address this situation and ensure we retain qualified candidates in the MBPD process, the Department now allows greater flexibility for the timeline in which candidates must pass the four required physical agility test components. Should a candidate be unsuccessful in one of the four required components during their initial physical agility test, the Department can move forward with the selection and background process, while requiring the candidate to successfully complete the failed component prior to receiving a conditional employment offer. Additionally, background standards are continuously monitored to ensure legal and POST compliance, and respond to the current environment, while maintaining the quality of and standards for new hires coming on board.

Following the selection process, Police Academy Trainees attend a four to six month Police Academy. Following academy graduation for Trainees or hiring for Lateral Officers, all Police Officers serve a probationary period that includes field training and observation. The probationary period is considered to be part of the testing of the individual's skills and abilities to successfully function as a Police Officer. As such, some degree of attrition during this time is normal and expected to ensure that the caliber of new hires is aligned with the community's expectations. Further, retirements, career opportunities, personal reasons, employees moving out of state contribute to employee turnover, and allow further opportunities for internal promotions. While the City has remained competitive in lateral recruitment, some changes that were implemented as a result of the 2013 Public Employees Pension Reform Act (PEPRA) will essentially "level the playing field" for the City's retirement formula being a positive recruitment tool as any Police Officers hired in the past ten years are now all in a standard retirement formula. In response to all of these factors, the City must continually evaluate its position in the labor market to remain competitive for lateral recruitment moving forward.

To keep up with the naturally occurring vacancies in the department and the newly approved positions while keeping a forward looking perspective on employee recruitment and retention, Human Resources has been working with the Police Chief and City Manager to bring forward options to the City Council for consideration. The approach on addressing these areas recognizes a more holistic approach to employee recruitment, retention, and morale, recognizing the link between employee morale and a desire to refer colleagues to come work at the City. The suggestions range from monetary incentives to quality of work life considerations. The focus of the recommendations is to enhance recruitment and referral programs and identify either one-time or low-cost ongoing incentives that will have a positive impact on recruitment, retention and morale, as well as provide incentives that will make the City of Manhattan Beach

“stand out” from other public sector entities and assist with advertising and recruitment. As these items were considered negotiable with the City’s labor group, the Council preliminarily provided direction in closed session, and the items are now coming back in open session for discussion and approval.

The following outlines these recruitment and retention incentives, some of which are specific to sworn Police Officers and some of which apply to other employee groups.

Recruitment Incentive Bonus and Referral Incentive Bonus:

As discussed in the background section, Council previously approved increases to the monetary incentives provided to new hires coming into the City as well as current Police Department employees who refer successful Police Officer candidates. In evaluating the current policy, staff recommends the following additional modifications to the policy:

1. Provide the referral bonus (currently \$4,032) to any City employee who refers a successful Police Officer candidate. The City Manager, executive staff and Human Resources employees involved in recruitment would not be eligible for this bonus.
2. Allow the recruitment incentive bonus (up to 10% of the annual base salary for the vacant position) to other recruitments deemed “hard to fill” by criteria outlined.

Leave banks for Sworn Police Employees:

One potential barrier to lateral Police Officer recruitment is that a lateral candidate will “lose” their vacation and sick banks and have to “start from scratch” as a new employee to the City of Manhattan Beach. In order to address this issue, staff recommends the following modifications that will be desirable for lateral recruitment while acknowledging the service and contributions of current employees:

1. Provide vacation leave accruals based on total years of sworn police experience for both lateral recruits and existing employees (similar to the existing benefit for the mid-management employees association and unrepresented who receive leave based on total years of governmental service).
2. Allow the ability for City to provide an initial bank of sick or vacation hours as part of the salary negotiation, at the discretion of the Chief.
3. Provide all current sworn police employees a one-time, non-cashable Paid Time Off (PTO) bank of 100 hours to be used in a two-year period. New employees hired within the current fiscal year (ending June 30, 2024) will also be eligible for this hours bank.

Other Recruitment and Retention Incentives

While focusing on sworn Police employees, staff also considered and presented options that would enhance recruitment and incentive efforts throughout the City, demonstrate appreciation for existing employees, and have the potential to differentiate the City from other public agencies in marketing available positions. Although addressed in a separate consent item on this same agenda, providing an increased health insurance contribution for management and unrepresented employees to maintain a competitive advantage in the health insurance benefit also falls within this category.

Additional recommendations include the following, which would begin in calendar year 2024:

1. Provide each City employee with a non-cashable floating “birthday holiday” that can be taken within their birthday month. (Sworn fire employees would receive an additional 10 hours of holiday-in-lieu pay instead of the day off.)
2. Close City Hall and other City facilities at noon on both Christmas Eve and New Years’ Eve and provide paid holiday time in the afternoon for any employees working on site who observe City Hall hours. This would not apply to facilities that do not observe normal holiday closures and employees in the City who work without regard to holidays.

In addition to approving the attached resolution capturing approval for these incentives, the Council may also provide direction on other recruitment and retention areas for staff to research and return to Council. Staff will also periodically return to the Council for future updates on staffing and to request approval for other incentives that would enhance recruitment and retention efforts. Additionally, the Police Department will return to the City Council in 2024 to provide an update on the new positions and teams approved in February 2023, once the department gets closer to filling the bulk of the vacant positions.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Resolution No. 23-0165
2. PowerPoint Presentation

RESOLUTION NO. 23-0165

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING POLICE OFFICER RECRUITMENT AND REFERRAL BONUSES AND OTHER RECRUITMENT AND RETENTION INCENTIVES

WHEREAS, the Manhattan Beach City Council originally established recruitment and referral bonuses for the recruitment of Police Officers and the referral by existing Police Department employees for new hire Police Officers on February 1, 2000;

WHEREAS, a Personnel Instruction titled "Police Officer/Lateral Recruitment Bonus" promulgated on August 1, 2003, increased the amounts of the previously established bonuses;

WHEREAS, at its February 7, 2023, meeting, the City Council provided direction on enhancing the recruitment and referral bonuses for Police Officers and members of the Police Department who refer Police Officers to ensure that the recruitment and referral bonuses remain competitive with the labor market and on February 21, 2023, those changes were formally approved by Council by Resolution No. 23-0021;

WHEREAS, the City hires the following categories of Police Officer:

1. Lateral Police Officers (laterals): Individuals who have passed the Police Academy and have at least one year of experience working as a Police Officer in another agency.
2. Academy Graduate Police Officers (academy graduates): Individuals who have passed the Basic Police Academy but do not yet have the required agency experience.
3. Police Academy Trainees (PAT's or trainees): entry-level employees who do not yet have training and experience in law enforcement. The City pays the individuals hired while they are attending a Police Academy, and their appointment to Police Officer/start of formal probationary period begins following successful completion of the Police Academy;

WHEREAS, the Manhattan Beach City Council has reviewed information regarding Police Department and other recruitment efforts, referral and recruitment bonuses, and additional recruitment and retention incentives; and

WHEREAS, the Manhattan Beach City Council has provided authority to its negotiators to negotiate these benefits with the affected employee labor associations.

THEREFORE, THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council hereby provides the following authority for Recruitment and Referral Bonuses:

- Recruitment bonus:

A recruitment bonus may be established as an incentive for an incoming employee

for any position that is deemed to be “hard-to-fill”. The recruitment bonus for each of the specified levels may be between 3% and 10% of the individual’s starting annual salary.

Police Officers are hereby determined to be a continually “hard-to-fill” positions, and the amount of the referral bonus is subject to the discretion of the Police Chief, with City Manager approval required prior to the bonus being paid. Effective December 5, 2023, any Department head may establish a recruitment bonus for a position that has been deemed “hard to fill”, subject to Human Resources Director and City Manager approval prior to advertising the recruitment bonus.

With the exception of Police Academy Trainees, recruitment bonuses will be paid as follows: 50% at time of appointment and 50% upon successful completion of the probationary period (for employees with a probationary period) or 50% after the first full year of employment (for employees without a probationary period).

Any bonus approved for Police Academy Trainee will be paid as follows: 50% at time of successful graduation from the Police Academy and appointment to Police Officer and 50% upon successful completion of the probationary period.

If the incoming employee who received a recruitment bonus separates from service within three years of the date of appointment, the individual will be required to reimburse the City for the entire amount of the transfer bonus.

- Referral bonus:

Any City employee who refers a candidate for Police Officer or Trainee will be eligible for a recruitment bonus of 5% of the Police Academy Trainee annual salary. Employees directly involved in the Police Department’s recruitment function (Sergeant, Lieutenant and support staff assigned to the Personnel and Training Section), employees in the Human Resources Department, and employees in the City’s Executive Team (City Manager, Department Heads, and other staff designated by the City Manager) are not eligible for this bonus. Employees who refer candidates will be required to complete and sign forms required by the City to approve and process benefit.

Bonuses for referring lateral and academy graduates will be paid as follows: 50% at time of appointment and 50% upon successful completion of the probationary period.

Bonuses for referring trainees will be paid as follows: 50% at time of successful graduation from the Police Academy and appointment to Police Officer and 50% upon successful completion of the probationary period.

SECTION 2. The City Council hereby authorizes the following incentives:

1. Provide vacation leave accruals based on total years of sworn police experience for both lateral Police Officers and existing sworn police employees in the Police Officers Association and Police Managers Association.

2. Allow an initial bank of sick or vacation hours to incoming Lateral Police Officers, at the discretion of the Police Chief, with a maximum of 80 hours combined sick leave and vacation hours per appointment.
3. Provide all current sworn police employees a one-time, non-cashable Paid Time Off (PTO) bank of 100 hours to be used in a 2-year period. New employees hired within the current fiscal year (ending June 30, 2024) will also be eligible for the PTO hours bank.
4. Provide each City employee (with the exception of the Division Chiefs and Manhattan Beach Firefighters Association employees assigned to suppression shifts) with a non-cashable floating “birthday holiday” that can be taken within their birthday month (or within 2 weeks before or after their birthday), subject to supervisory approval. Sworn Fire employees assigned to suppression shifts will receive an increase of 10 hours in holiday-in-lieu pay in recognition of the “birthday holiday”.
5. Close City Hall and other City facilities at noon on both Christmas Eve and New Years’ Eve and provide paid holiday time in the afternoon for any employees working on site who observe City Hall hours. This would not apply to facilities that do not observe normal holiday closures and employees in the City who work without regard to holidays.

SECTION 3. The City Council repeals Resolution 23-0021 in its entirety.

SECTION 4. The Human Resources Director or her designee shall establish policies and procedures needed for the implementation of the recruitment and referral bonuses authorized under this resolution.

SECTION 5. The City Manager or his designee is authorized to enter into side letter agreements to the Memoranda of Understanding with the affected City labor associations establishing these benefits.

SECTION 6. The City Clerk shall certify to the adoption of this Resolution.

ADOPTED on December 5, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

UPDATE REGARDING POLICE DEPARTMENT AND CITYWIDE STAFFING AND RECRUITMENT

DECEMBER 5, 2023

City Council Meeting

December 5, 2023



Page 402 of 428

Note: This PowerPoint presentation is intended solely as a visual aid to an oral staff presentation of an agenda report topic. In the event of any differences between the presentation and the agenda report, the information in the agenda report prevails.

BACKGROUND

- February 2023 – An increase to Police Department Staffing was authorized by the City Council
 - 7 Sworn Positions
 - 3 Civilian (Professional Staff) Positions
- February 2023 – Changes to the recruitment and referral bonuses were authorized
 - Recruitment incentive increased to 3 – 10% of annual salary
 - Referral bonus increased to \$4,032

BACKGROUND

- Fulltime Positions Filled by Fiscal Year City wide

Fiscal Year	New Hire	Promotion*	Internal Appt.**	Total
2017-18	8	4	7	19
2018-19	12	8	4	24
2019-20	11	7	5	23
2020-21	16	9	2	27
2021-22	36	23	10	69
2022-23	32	34	5	83
2023-24***	20	4	5	28

**FY-to-date Data as of November 27, 2023

- Police Department Hiring Since July 1, 2021
 - 23 Sworn Hires, 10 Internal Promotions
 - 12 New Hires, 19 Promotions or Internal Appointments
 - 3 Civilian Positions to PAT, 4 PAT to Police Officer

DISCUSSION

- Competing for Talent in a Challenging Marketplace
 - Large cash bonuses
 - Contract reopeners
 - Retention and recruitment have more equal importance than in previous years
- Workplace Expectations & Perquisite (“Perks”) Landscape Have Shifted
 - Paid leave
 - Flexible work hours
 - Increased annual leave

DISCUSSION

- Increased Volume of Recruitments
 - Delayed Resignations and Retirements
 - 30 in FY 2022
 - Prior to 2020, Annual Average was 10
 - Reorganization and Promotions
 - More recruitments to backfill for internal movement
 - Citywide staffing has increased by 32 FTE positions
- Some Positions are More Difficult to Fill Than Others
 - Police Officers
 - Police Support Staff
 - Specialized Technical Positions Across Departments

DISCUSSION

- Police Officer Recruitment
 - Monthly Testing
 - Enhancements to Long Range Recruitment Programs
 - Intern Program
 - ASPIRE Program
 - Explorer Program
 - Advertising and Targeted Marketing
 - Career Fairs
 - Targeted Social Media Advertising

DISCUSSION

- Police Officer Recruitment (cont'd)
 - Six month academy for Police Academy Trainees
 - Six month Field Training Program (FTP)
 - Probationary period following FTP
- Effect of Public Employees Pension Reform Act (PEPRA – 2013)
 - Lateral “classic” PERS employees still enjoyed 3%@50
 - “Classic” retirement was a positive recruitment tool
 - Getting to the end of “Classic” employees

DISCUSSION

- Recruitment and Retention Considerations
 - Recruitment and Incentive Bonus and Referral Incentive Bonus
 - Leave Banks for Sworn Employees
 - Birthday Holiday
 - Close City Hall and other City Facilities at Noon on Christmas Eve and New Year's Eve

FISCAL IMPLICATIONS

- Not all costs are easily quantifiable
 - Productivity cost of a day off is difficult to quantify
 - If full value of all leave considered:
 - Accelerated Vacation Accruals (POA/PMA): \$45,368
 - Birthday Holiday (All Full-time Employees): \$160,255
- Recruitment bonus and referral incentives are dependent on the number of recruitments and positions filled
 - Paid from salary savings as costs are incurred
- One-time cost for PTO leave banks for sworn police officers: \$376,929

RECOMMENDATION

- Staff recommends that the City Council receive an update on Police Department staffing and Citywide and Police Department recruitment efforts, and approve the attached resolution which authorizes modifications to the City's recruitment and referral bonus policy and other recruitment and retention incentives.
- Staff further recommends that the City Council review the information provided regarding recruitment incentive enhancements, and provide direction regarding any requested modifications to the recruitment incentive program.





CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

FROM:

Quinn M. Barrow, City Attorney

SUBJECT:

Consideration of a Resolution Amending the City Manager’s Employment Agreement to Provide The City Manager with the Ability to Accrue Additional Annual Leave of Up To 150 “Non-Cashable” Hours That Must Be Used Prior To December 31, 2024 (City Attorney Barrow).

(Estimated Time: 5 Mins.)

ADOPT RESOLUTION NO. 23-0159, APPROVING AMENDMENT NO. 4 TO THE CITY MANAGER EMPLOYMENT AGREEMENT

RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. 23-0159, approving Amendment No. 4 to the City Manager’s employment agreement.

FISCAL IMPLICATIONS:

No direct costs. The value of the additional leave could be up to \$22,223.45, in the event the City Manager utilizes all 150 hours in lieu of general leave.

BACKGROUND:

The City Council hired Bruce Moe as City Manager on February 6, 2018. After an initial employment agreement (“Employment Agreement”), the Employment Agreement has been amended three times and extended. The current expiration date is February 5, 2027. The 2018 Employment Agreement, provided, *inter alia*, that the City Manager shall accrue general leave at the rate of 280 hours annually, with a total cap of 840 hours.

DISCUSSION:

The City Manager has requested the ability to accrue an additional 150 hours of leave that he can use in lieu of General Leave. If approved by the City Council, such leave cannot be “cashed out,” and any remaining balance will be forfeited on December 31, 2024. Any general leave accrued above 840 hours is non-cashable and will be placed in a separate bank, which may be used at any time during the next calendar year.

Attached is proposed Amendment No. 4, with the following proposed revision to Section 4. B.
(2) General Leave of the Employment Agreement:

“Notwithstanding the foregoing 840 maximum accrual number of general leave hours, Employee may accrue up to an additional 150 hours, prorated and credited each pay period, that he can use in lieu of General Leave. Any unused balance of such additional annual leave shall be forfeited on December 31, 2024. Any general leave accrued above 840 hours is non-cashable and will be placed in a separate bank, which may be used at any time during calendar year 2024.”

CONCLUSION:

It is recommended that the City Council adopt Resolution No. 23-0159, approving Amendment No. 4 to the City Manager’s employment agreement.

ATTACHMENTS:

1. Resolution No. 23-0159
2. Amendment No. 4 - City Manager’s Employment Agreement

RESOLUTION NO. 23-0159

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING AMENDMENT NO. 4, AMENDING THE CITY MANAGER'S EMPLOYMENT AGREEMENT TO PROVIDE THE CITY MANAGER THE ABILITY TO ACCRUE ADDITIONAL ANNUAL LEAVE OF UP TO 150 HOURS, THAT CAN BE USED IN LIEU OF GENERAL LEAVE PRIOR TO DECEMBER 31, 2024

RECITALS

- A. On February 20, 2018, the City of Manhattan Beach ("City") and Bruce Moe ("City Manager") entered into an employment agreement ("Employment Agreement"), which provided, *inter alia*, that the City Manager shall accrue general leave at the rate of 280 hours annually, with a total cap of 840 hours.
- B. On April 2, 2019, the City and City Manager (collectively the "Parties") entered into Amendment No. 1 to the Employment Agreement providing for a three percent merit increase to the City Manager's base salary and a cell phone allowance in lieu of providing a smart phone.
- C. On November 4, 2020, the Parties entered into Amendment No. 2, extending the term of the Employment Agreement to February 5, 2024, and modifying certain benefits.
- D. On March 22, 2023, the Parties entered into Amendment No. 3, extending the term of the Employment Agreement to February 5, 2027, and increasing the City Manager's base salary to \$308,165.04.
- E. Hereinafter, the Employment Agreement, as amended by Amendments No. 1, No. 2 and No. 3, is referred to as "the Agreement."

THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council hereby approves Amendment No. 4 to the Employment Agreement, to provide the City Manager the ability to accrue additional annual leave of up to 150 hours of leave, that can be used in lieu of General Leave prior to December 31, 2024, subject to the terms and conditions of the Amendment.

SECTION 2. The Mayor shall execute the Amendment on behalf of the City.

SECTION 3. The City Clerk shall certify to the passage and adoption of this resolution.

ADOPTED on December 5, 2023.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

**AMENDMENT NO. 4 TO CITY MANAGER’S EMPLOYMENT AGREEMENT
PROVIDING TO THE CITY MANAGER THE ABILITY TO ACCRUE UP TO AN
ADDITIONAL LEAVE OF 150 HOURS THAT MUST BE USED PRIOR TO
DECEMBER 31, 2024**

This Amendment No. 4 (“Amendment 4”) to that certain Employment Agreement dated February 21, 2018 by and between the City of Manhattan Beach, a municipal corporation (“City”) and Bruce Moe (“Employee”) is entered into on December 5, 2023.

RECITALS

A. City and Employee (collectively “the Parties”) entered into an employment agreement on February 21, 2018, setting forth Employee’s duties and responsibilities as City Manager for the City, which provided, *inter alia*, that the City Manager shall accrue general leave at the rate of 280 hours annually, with a total cap of 840 hours.

B. On April 2, 2019, the Parties entered into Amendment No. 1 providing for a three percent merit increase to Employee’s base salary and a cell phone allowance in lieu of providing a smart phone.

C. On November 5, 2020, the Parties entered into Amendment No. 2 providing a three year extension of the term of the Agreement and modifications to certain benefits.

D. On March 22, 2023, the Parties entered into Amendment No. 3 extending the term of the Employment Agreement to February 5, 2027, and increasing Employee’s base salary.

E. Hereinafter, the Employment Agreement, as amended by Amendments No. 1, No. 2 and No. 3, is referred to as “the Agreement.”

NOW, THEREFORE, the Parties hereby amend the Agreement as follows:

Section 1. Section 4 B (2) General Leave of the Agreement is hereby amended to read:

“(2) General Leave. Employee shall accrue general leave at the rate of 280 hours annually, prorated and credited each pay period. When possible, general leave shall be scheduled with the City Council at least two weeks in advance. Employee may accrue general leave not to exceed a limit of 840 hours. Once Employee’s accrual reaches the 840-hour limit, all further accruals will cease; and Employee will not be eligible for further accruals until his accrued general leave balance falls below the 840-hour limit. Employee may “cash out” accrued leave in accordance with the applicable rules for Management/Confidential employees.

Notwithstanding the foregoing 840 maximum accrual number of general leave hours, Employee may accrue up to an additional 150 hours, prorated and credited each pay period, that he can use in lieu of General Leave. Any unused balance of such

additional annual leave shall be forfeited on December 31, 2024. Any general leave accrued above 840 hours is non-cashable and will be placed in a separate bank, which may be used at any time during calendar year 2024.”

Section 2. Except as specifically amended by this Amendment No. 4, all terms and conditions set forth in the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, this Amendment is entered into December 5, 2023.

CITY OF MANHATTAN BEACH

EMPLOYEE

By: _____
Mayor Richard Montgomery

City Manager Bruce Moe

Date: _____

ATTEST:

APPROVED AS TO FORM:

City Clerk Liza Tamura

City Attorney Quinn M. Barrow

Date: _____

Date: _____



CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
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STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Liza Tamura, City Clerk

Martha Alvarez, Assistant City Clerk

SUBJECT:

Agenda Forecast (City Clerk Tamura).

INFORMATION ITEM ONLY

DISCUSSION:

The subject matter below is anticipated to appear on future City Council Agendas. It's important to note that the information being provided is tentative, subject to change and is listed for planning purposes only. Agendas for City Council Meetings are finalized and posted 6 days prior to the meeting date.

CEREMONIAL

- Pledge - Knox Charelian.
- Presentation of a Baby Passport to Steve and Arcie Charelian, Welcoming Manhattan Beach's Newest Resident Chase Steel Charelian.
- Winners of the Holiday Decoration Contest Presentation of a Proclamation from the Beach Cities Health District Recognizing the City of Manhattan Beach in Being a Partner in Health with the District as they Celebrate 25 Years of Preventive Health Success.
- Presentation of Recognition Awards for Longstanding Local Businesses (Finance Director Charelian).

CONSENT

- City Council Minutes (City Clerk Tamura).
- Financial Reports (Finance Director Charelian).
- Consideration and Approval of the 2024 City Council Meeting Calendar (City Clerk Tamura).
- Consideration of a Second Reading and Adoption of an Ordinance to Introduce

Proposed Regulations Related to Senate Bill 9 (SB 9) by Amending Title 10 (Planning and Zoning) and Title 11 (Subdivisions) of the Manhattan Beach Municipal Code (Community Development Mirzakhani).

- Consideration of Resolutions Awarding Professional Services Agreements for On-Call Design Services for Storm Drain Improvement Projects to Three Consulting Firms for \$150,000 Per Firm for a Three-Year Term (Public Works Director Lee).
- Consideration of a Second Reading and Adoption of an Ordinance Amending Chapters *** Cross Connection Ordinance (Public Works Director Lee).
- Consideration of Accepting as Complete Work Performed by Hot Line Construction Regarding Underground Utility Assessment Districts 19-12 and 19-14 (Public Works Director Lee).
- Consideration of a Resolution to Apply for State Water Resources Control Board Financial Assistance in the Amount of \$3,500,000 for the El Porto Water Improvement Project (Public Works Director Lee).
- Consideration of Resolutions Awarding a Construction Agreement to *** for the Joslyn Center Crosswalk Improvement Project for \$***; Approving an Inspection Services Agreement with *** in the Amount of \$*** (Public Works Director Lee).
- Second Reading and Adoption of an Ordinance Amending Section 7.28.100 of the Manhattan Beach Municipal Code Regarding the Responsibility of Property Owners within a Utility Undergrounding District; and Making a Determination of Exemption Under CEQA (Public Works Director Lee).
- City Council Assignments (City Clerk Tamura).
- Consideration of a Resolution Declaring an Intention to Provide for Annual Levy and Collection of Assessments for the North Manhattan Beach Business Improvement District and Setting February 20, 2024, for a Public Hearing (City Manager Moe).
- Fiscal Year 2022-2023 Annual Comprehensive Financial Report (Finance Director Charelian).
- Consideration of a Resolution Approving a Memorandum of Understanding with Los Angeles County for the Installation of the Catalina Classic (Parks and Recreation Director Leyman).
- Recommendation for Council Award of the TMDL Trash Treatment Project Construction Contract to _____ for \$_____ (Public Works Director Lee).
- Formally Accept as Complete the Cycle 2 Street Resurfacing Project Encompassing Agnes Road, 27th and 29th Streets; Authorize Filing a Notice of Completion with the County Recorder; Release Retention of \$XX,XXX.XX (Public Works Director Lee).
- Consideration of a Resolution Awarding a Construction Agreement to *** for the Ceramic Studios Kiln Installation Project for \$*** Including Contingency; and a Determination Pursuant to the California Environmental Quality Act that the Project is Categorically Exempt Pursuant to Section 15301(c) of the State CEQA Guidelines (Public Works Director Lee).

PUBLIC HEARING

- Conduct Public Hearing for Consideration of an Annual Military Equipment Usage Report, Pursuant to Assembly Bill 481 (Police Chief Johnson).

GENERAL BUSINESS

- Consideration of Field Reservation and Per Player Fee Adjustments for Fiscal Year 2024-2025 and Creation of a Turf Replacement Plan (Parks and Recreation Director Leyman).
- Approve Updated Donation Policy and Provide Direction on Donation Program Recommendations (Parks and recreation Director Leyman).
- Consideration of Adopting Guidelines Concerning the Operation of Non-Brown Act Meeting Bodies (City Manager Moe).
- Consideration of Options to Address Upcoming City Council Legislative Priorities and Positions on Federal, State or County Legislation (City Manager Moe).
- Consideration of a Second Reading and Adoption of an Ordinance to Amend the Contract Between the Board of Administration California Public Employees Retirement System (CalPERS) and the City of Manhattan Beach to Provide Provisions of Retirement Law Section 20516 - Employee Cost Sharing (Human Resources Director Jenkins).
- Update on the LA vs Hate Mural (Parks and Recreation Director Leyman).
- City Council Reorganization (City Clerk Tamura).
- Reorganization of the Manhattan Beach Capital Improvements Corporation (Chief Financial Officer Charelian) (CIC).
- Appointment of the Parking and Public Improvements Commission Seat No. 4 (City Clerk Tamura).
- Consideration of Award of Professional Services Agreement to TBD for \$XXX,XXX for Lot 3 Parking Structure Replacement Project Feasibility Study and Public Outreach (Public Works Director Lee).
- Consideration of Proposed Fees and Charges Related to Electric Vehicle Charging at City Parking Facilities (Public Works Director Lee).
- Consideration of the Preliminary Design Concept for the Manhattan Beach Boulevard at Pacific Avenue Improvements Project; and a Determination of Exemption Pursuant to Section 15301 (Class 1) of the California Environmental Quality Act (CEQA) Guidelines (Public Works Director Lee).
- Consideration of Options to Address Overnight Parking of Oversized Vehicles (City Manager Moe).
- Utility Box Phase III (Parks and Recreation Director Leyman).

INFORMATIONAL

- Presentation by Assemblymember Al Muratsuchi, 66th District, of \$3.5 Million in State Funding to the City for the El Porto Water Infrastructure Improvement Project (Community Announcement).



CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 12/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Talyn Mirzakhonian, Community Development Director

SUBJECT:

Commission Minutes:

This Item Contains Minutes of the following City Commission Meetings:

- a) Planning Commission Action Meeting Minutes of August 9, 2023 (Cancelled) (Community Development Director Mirzakhonian)
- b) Planning Commission Action Meeting Minutes of September 13, 2023 (Cancelled) (Community Development Director Mirzakhonian).

INFORMATION ITEM ONLY

The attached minutes are for information only:

- 1. Planning Commission Action Meeting Minutes of August 9, 2023 (Cancelled)
- 2. Planning Commission Action Meeting Minutes of September 13, 2023 (Cancelled)

**CITY OF MANHATTAN BEACH
MINUTES OF THE PLANNING COMMISSION
Manhattan Beach City Hall
August 9, 2023**

The City of Manhattan Beach Planning Commission regular meeting of **August 9, 2023**, was CANCELLED due to no agenda items being scheduled.

The next meeting of the Planning Commission is scheduled for August 23, 2023 at 3:00 p.m.

**CITY OF MANHATTAN BEACH
MINUTES OF THE PLANNING COMMISSION
Manhattan Beach City Hall
September 13, 2023**

The City of Manhattan Beach Planning Commission regular meeting of **September 13, 2023**, was CANCELLED due to no agenda items being scheduled.

The next meeting of the Planning Commission is scheduled for September 27, 2023 at 3:00 p.m.

