

**CITY OF SANTA BARBARA
CITY COUNCIL**

Helene Schneider
Mayor
Gregg Hart
Mayor Pro Tempore
Randy Rowse
Ordinance Committee Chair
Dale Francisco
Finance Committee Chair
Frank Hotchkiss
Cathy Murillo
Bendy White



Paul Casey
City Administrator

Ariel Pierre Calonne
City Attorney

City Hall
735 Anacapa Street
<http://www.SantaBarbaraCA.gov>

**APRIL 14, 2015
AGENDA**

ORDER OF BUSINESS: Regular meetings of the Finance Committee and the Ordinance Committee begin at 12:30 p.m. The regular City Council meeting begins at 2:00 p.m. in the Council Chamber at City Hall.

REPORTS: Copies of the reports relating to agenda items are available for review in the City Clerk's Office, at the Central Library, and <http://www.SantaBarbaraCA.gov>. In accordance with state law requirements, this agenda generally contains only a brief general description of each item of business to be transacted or discussed at the meeting. Should you wish more detailed information regarding any particular agenda item, you are encouraged to obtain a copy of the Council Agenda Report (a "CAR") for that item from either the Clerk's Office, the Reference Desk at the City's Main Library, or online at the City's website (<http://www.SantaBarbaraCA.gov>). Materials related to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office located at City Hall, 735 Anacapa Street, Santa Barbara, CA 93101, during normal business hours.

PUBLIC COMMENT: At the beginning of the 2:00 p.m. session of each regular City Council meeting, and at the beginning of each special City Council meeting, any member of the public may address the City Council concerning any item not on the Council's agenda. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that public comment is taken up by the City Council. Should City Council business continue into the evening session of a regular City Council meeting at 6:00 p.m., the City Council will allow any member of the public who did not address them during the 2:00 p.m. session to do so. The total amount of time for public comments will be 15 minutes, and no individual speaker may speak for more than 1 minute. The City Council, upon majority vote, may decline to hear a speaker on the grounds that the subject matter is beyond their jurisdiction.

REQUEST TO SPEAK: A member of the public may address the Finance or Ordinance Committee or City Council regarding any scheduled agenda item. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that the item is taken up by the Finance or Ordinance Committee or City Council.

CONSENT CALENDAR: The Consent Calendar is comprised of items that will not usually require discussion by the City Council. A Consent Calendar item is open for discussion by the City Council upon request of a Councilmember, City staff, or member of the public. Items on the Consent Calendar may be approved by a single motion. Should you wish to comment on an item listed on the Consent Agenda, after turning in your "Request to Speak" form, you should come forward to speak at the time the Council considers the Consent Calendar.

AMERICANS WITH DISABILITIES ACT: If you need auxiliary aids or services or staff assistance to attend or participate in this meeting, please contact the City Administrator's Office at 564-5305. If possible, notification at least 48 hours prior to the meeting will usually enable the City to make reasonable arrangements. Specialized services, such as sign language interpretation or documents in Braille, may require additional lead time to arrange.

TELEVISION COVERAGE: Each regular City Council meeting is broadcast live in English and Spanish on City TV Channel 18 and rebroadcast in English on Wednesdays and Thursdays at 7:00 p.m. and Saturdays at 9:00 a.m., and in Spanish on Sundays at 4:00 p.m. Each televised Council meeting is closed captioned for the hearing impaired. Check the City TV program guide at www.citytv18.com for rebroadcasts of Finance and Ordinance Committee meetings, and for any changes to the replay schedule.

REGULAR CITY COUNCIL MEETING – 2:00 P.M.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CEREMONIAL ITEMS

- 1. Subject: Proclamation Declaring April 12-18, 2015 As National Public Safety Telecommunicators Week (120.04)**
- 2. Subject: Proclamation Declaring April 12-18, 2015 As Week Of The Young Child (120.04)**

CHANGES TO THE AGENDA

PUBLIC COMMENT

CONSENT CALENDAR

- 3. Subject: Adoption Of Ordinance For A License Agreement With Southern California Gas Company (380.02)**

Recommendation: That Council adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Approving a 20-year license agreement with Southern California Gas Company, for installation, operation, and maintenance of Advanced Metering Infrastructure on City Water Resources properties, for a one-time fee of \$780 per location, effective April 27, 2015.

CONSENT CALENDAR (CONT'D)

4. Subject: Strategic Prevention Framework State Incentive Grant To Address Underage And Excessive Drinking And Driving (520.04)

Recommendation: That Council:

- A. Accept an additional \$15,000 from the County of Santa Barbara Alcohol, Drug & Mental Health Services (ADMHS) Strategic Prevention Framework State Incentive Grant to address underage and excessive drinking and alcohol related motor vehicle accidents for Fiscal Year 2015; and
- B. Increase appropriations and estimated revenues by \$15,000 in the Police Miscellaneous Grants Fund for Fiscal Year 2015.

5. Subject: Authorization For The Allocation Of Transportation Development Act Funds (670.05)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Authorizing the Filing of a Claim with the Santa Barbara County Association of Governments for Allocation of \$71,663 in Transportation Development Act Funds for Fiscal Year 2016.

6. Subject: Contract For Construction Of Elings Park Recycled Water Pump Station Project (540.06)

Recommendation: That Council:

- A. Award a contract with Pacific Coast Excavation, in their low bid amount of \$213,874 for construction of the Elings Park Recycled Water Pump Station Project, Bid No. 3722; and authorize the Public Works Director to execute the contract and approve expenditures up to \$21,390 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment; and
- B. Authorize the Public Works Director to execute a contract with Mimiaga Engineering Group in the amount of \$23,400 for construction support services, and approve expenditures of up to \$2,340 for extra services of Mimiaga Engineering Group that may result from necessary changes in the scope of work.

7. Subject: Contract Amendment For Contract Plan Review Services (610.01)

Recommendation: That Council approve an amendment to Agreement No. 21500032 to increase total compensation for contract plan review services and the associated Purchase Order by \$77,500 for a total of \$112,500.00.

CONSENT CALENDAR (CONT'D)

NOTICES

8. The City Clerk has on Thursday, April 9, 2015, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.
9. A City Council site visit is scheduled for Monday, April 20, 2015, at 1:30 p.m. to the property located at 2405 State Street, which is the subject of an appeal hearing set for April 21, 2015, at 2:00 p.m.

This concludes the Consent Calendar.

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

CITY ATTORNEY

10. Subject: Sidewalk Behavior and Panhandling Ordinances (520.04)

Recommendation: That Council introduce and subsequently adopt, by reading of title only, the following Ordinance Committee recommended ordinances:

- A. An Ordinance Of The Council Of The City Of Santa Barbara Amending Section 2.28.030 Of The Santa Barbara Municipal Code To Grant The Library Director The Authority To Promulgate And Post Facility Specific Regulations;
- B. An Ordinance Of The Council Of The City Of Santa Barbara Amending Title 9 Of The Municipal Code By Adding Chapter 9.07 To Prohibit Urinating Or Defecating In Public;
- C. An Ordinance Of The Council Of The City Of Santa Barbara Amending Section 9.48.010 Of The Municipal Code Regarding Commercial Use Of City Streets To Prohibit The Use Of Public Street Furniture As A Venue For Selling Or Offering For Donation;
- D. An Ordinance Of The Council Of The City Of Santa Barbara Amending Section 9.50.010 Of The Santa Barbara Municipal Code To Prohibit Active Panhandling In Specified Locations;
- E. An Ordinance Of The Council Of The City Of Santa Barbara Amending Section 9.97.010 Of The Santa Barbara Municipal Code Regarding Sitting Or Lying On Sidewalks And Paseos Along Certain Downtown Portions Of State Street; and
- F. An Ordinance Of The Council Of The City Of Santa Barbara Amending Section 9.98.010 Of The Santa Barbara Municipal Code Regarding Pedestrians Blocking Public Sidewalks.

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS (CONT'D)

AIRPORT DEPARTMENT

11. Subject: Airport Aircraft Rescue And Firefighting (ARFF) Budget Discussion (560.01)

Recommendation: That Council hear a staff discussion on potential adjustments to the Fire Department staffing for Federal Aviation Administration required Aircraft Rescue and Firefighting (ARFF) services at the Airport.

PUBLIC WORKS DEPARTMENT

12. Subject: Stage Two Drought Update (540.01)

Recommendation: That Council receive an update on the status of the current drought and related efforts.

13. Subject: Potential Stage Three Drought Condition Response Measures (540.01)

Recommendation: That Council receive a presentation and provide direction to staff on the potential Stage Three Drought Condition modified conservation target, water use regulations, and development restrictions.

COUNCIL AND STAFF COMMUNICATIONS

COUNCILMEMBER COMMITTEE ASSIGNMENT REPORTS

CLOSED SESSIONS

14. Subject: Conference With City Attorney - Pending Litigation (160.03)

Recommendation: That Council hold a closed session to consider pending litigation pursuant to subsection (d)(1) of section 54956.9 of the Government Code and take appropriate action as needed. The pending litigation is *Alexander Cruz v. City of Santa Barbara*; WCAB Case numbers ADJ7371091 and ADJ7371090.

Scheduling: Duration, 20 minutes; anytime

Report: None anticipated

CLOSED SESSIONS (CONT'D)

15. **Subject: Conference With City Attorney - Pending Litigation (160.03)**

Recommendation: That Council hold a closed session to consider pending litigation pursuant to subsection (d)(1) of section 54956.9 of the Government Code and take appropriate action as needed. The pending litigation is *Martin Valencia v. City of Santa Barbara*; WCAB Case number ADJ8407029.

Scheduling: Duration, 20 minutes; anytime

Report: None anticipated

16. **Subject: Conference With City Attorney - Pending Litigation (160.03)**

Recommendation: That Council hold a closed session to consider pending litigation pursuant to subsection (d)(1) of section 54956.9 of the Government Code and take appropriate action as needed. The pending litigation is *Mark Vierra v. City of Santa Barbara*; WCAB Case number ADJ9535185.

Scheduling: Duration, 20 minutes; anytime

Report: None anticipated

17. **Subject: Conference With City Attorney - Pending Litigation (160.03)**

Recommendation: That Council hold a closed session to consider pending litigation pursuant to subsection (d)(1) of section 54956.9 of the Government Code and take appropriate action as needed. The pending litigation is *Luke Brost as Trustee for the Luke Brost Living Trust, et al., v. City of Santa Barbara*, SBSC Case No. 1342979/Court of Appeal Case No. B246153.

Scheduling: Duration, 20 minutes; anytime

Report: None anticipated

18. **Subject: Conference With City Attorney - Anticipated Litigation (160.03)**

Recommendation: That Council hold a closed session to decide whether to initiate litigation pursuant to Section 54956.96 of the Government Code and take appropriate action as needed. (one potential case).

Scheduling: Duration, 30 minutes; anytime

Report: Report anticipated

CLOSED SESSIONS (CONT'D)

19. Subject: Public Employee Performance Evaluation - Government Code Section 54957 (160.01))

Recommendation: That Council hold a closed session for a Public Employee Performance Evaluation per Government Code Section 54957.

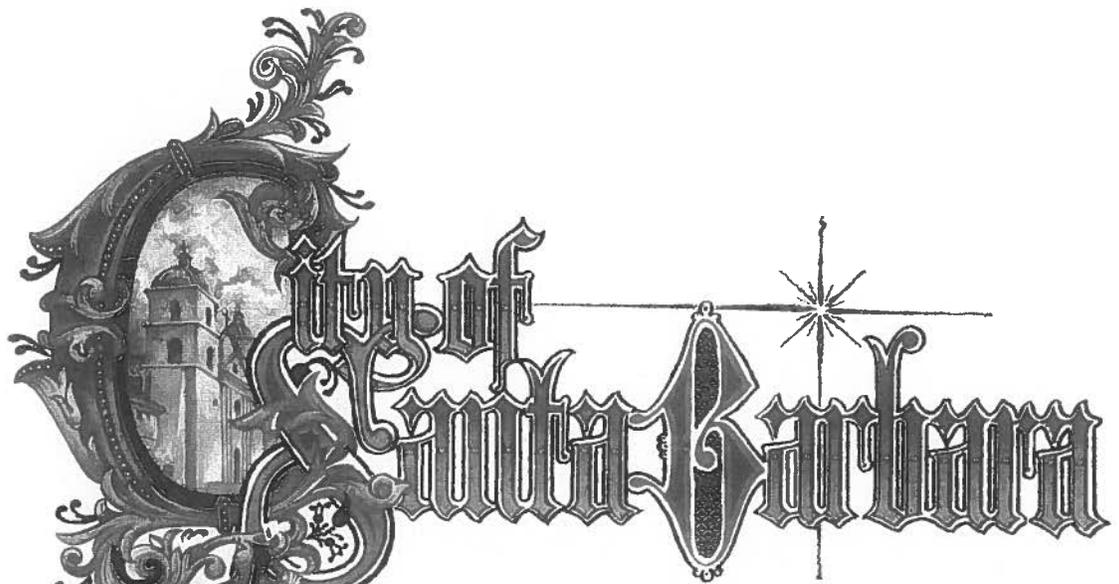
Title: City Attorney

Scheduling: Duration, 40 minutes; anytime

Report: None anticipated

ADJOURNMENT

To Monday, April 20, 2015, at 1:30 p.m. at 2405 State Street. (See Item No. 9)



**NATIONAL PUBLIC SAFETY
TELECOMMUNICATORS WEEK**

April 12-18, 2015

WHEREAS, emergencies can occur at any time requiring police, fire or emergency medical services; and

WHEREAS, when an emergency occurs the prompt response of law enforcement, firefighters and paramedics is critical to the protection of life and preservation of property; and

WHEREAS, the safety of our, police officers, and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Santa Barbara Police combined communications center; and

WHEREAS, public safety dispatchers are the single vital link for our law enforcement and fire personnel by monitoring their activities by radio and computer, providing them information and ensuring their safety; and

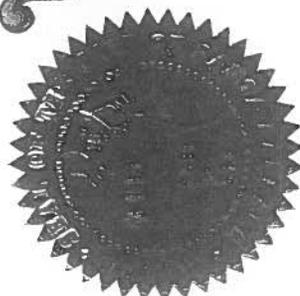
WHEREAS, public safety dispatchers of the Santa Barbara Police combined communications center have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients; and

WHEREAS, each dispatcher has exhibited compassion, understanding and professionalism during the performance of their job in the past year.

NOW, THEREFORE, I, HELENE SCHNEIDER, as Mayor of the City of Santa Barbara, California, do hereby proclaim the week of **April 12-18, 2015**, as "**National Public Safety Telecommunicators Week**" and joins in honoring the men and women whose diligence and professionalism keep our city and citizens safe.

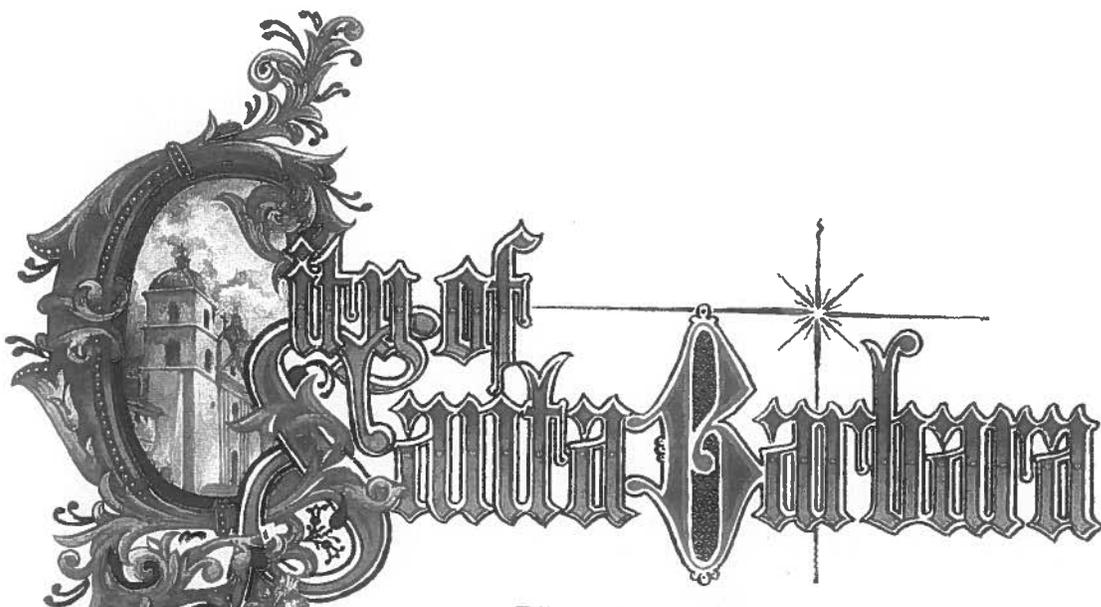
IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Santa Barbara, California, to be affixed this 14th day of April 2015.


HELENE SCHNEIDER
Mayor



APR 14 2015 #1

120.04



**PROCLAMATION
WEEK OF THE YOUNG CHILD
April 12-18, 2015**

*WHEREAS, the purpose of the **Week of the Young Child 2015** is a national effort to call attention to the need for high quality early childhood educational programs and services for all children and families. It is important to increase community involvement in early childhood issues and to foster continued participation on the part of the community, addressing child care needs, and to celebrate the joys of young children; and*

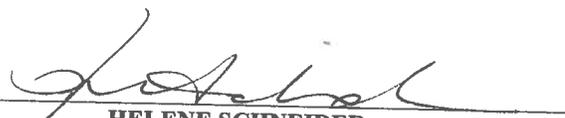
WHEREAS, by calling attention to the need for early childhood education programs and services for all children and families within our community, these groups hope to improve the quality and availability of such education programs and services; and

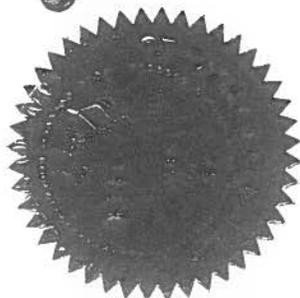
WHEREAS, the future of our community depends on the quality of the early childhood experiences provided to young children today; and

WHEREAS, high-quality early childhood education programs and services represent a worthy investment and commitment to our children's future and should be recognized for their value to the community.

NOW, THEREFORE, I, HELENE SCHNEIDER, as Mayor of the City of Santa Barbara, California, do hereby proclaim the week of **April 12-18, 2015** as **Week of the Young Child** and urges all residents to recognize and support the needs of young children in our community and the high quality programs that serve them.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Santa Barbara, California, to be affixed this 14th day of April 2015.


HELENE SCHNEIDER
Mayor



ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA APPROVING A 20-YEAR LICENSE AGREEMENT WITH SOUTHERN CALIFORNIA GAS COMPANY, FOR INSTALLATION, OPERATION, AND MAINTENANCE OF ADVANCED METERING INFRASTRUCTURE ON CITY WATER RESOURCES PROPERTIES, FOR A ONE-TIME FEE OF \$780 PER LOCATION, EFFECTIVE APRIL 27, 2015

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. In accordance with the provisions of Section 521 of the Charter of the City of Santa Barbara, An Ordinance of the Council of the City of Santa Barbara Approving a 20-Year License Agreement With Southern California Gas Company for Installation, Operation, and Maintenance of Advanced Metering Infrastructure on City Water Resources Properties, for a One-Time Fee of \$780 Per Location, Effective April 27, 2015, is hereby approved.



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015

TO: Mayor and Councilmembers

FROM: Patrol Division, Police Department

SUBJECT: Strategic Prevention Framework State Incentive Grant To Address Underage And Excessive Drinking And Driving

RECOMMENDATION: That Council:

- A. Accept an additional \$15,000 from the County of Santa Barbara Alcohol, Drug & Mental Health Services (ADMHS) Strategic Prevention Framework State Incentive Grant to address underage and excessive drinking and alcohol related motor vehicle accidents for Fiscal Year 2015; and
- B. Increase appropriations and estimated revenues by \$15,000 in the Police Miscellaneous Grants Fund for Fiscal Year 2015.

DISCUSSION:

The Police Department will collaborate with ADMHS, Council on Alcoholism and Drug abuse (CADA), the Prevention Research Center, and the State Department of Alcohol and Drug Programs, in order to address underage and excessive drinking and alcohol related motor vehicle accidents as part of the Strategic Prevention Framework State Incentive Grant. The aim of the grant is to reduce underage drinking among individuals 12 to 25 years of age with a special focus on reducing excessive drinking by individuals aged 21 to 25.

BUDGET/FINANCIAL INFORMATION:

The Police Department has already received \$34,500 in funding from this grant and the additional \$15,000 will bring the total funding received to \$49,500. The funds from the grant will be used to cover costs related to the administration of the grant, training and proactive enforcement programs.

PREPARED BY: Lorenzo Duarte, Police Lieutenant

SUBMITTED BY: Camerino Sanchez, Chief of Police

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015

FROM: Transportation Division, Public Works Department

SUBJECT: Authorization For The Allocation Of Transportation Development Act Funds

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Authorizing the Filing of a Claim with the Santa Barbara County Association of Governments for Allocation of \$71,663 in Transportation Development Act Funds for Fiscal Year 2016.

DISCUSSION:

Each year, the City is required to adopt a resolution authorizing the Transportation Manager to file a claim for the City's share of area-wide Transportation Development Act Funds. The use of these funds is restricted to pedestrian and bicycle projects.

The claim that will be submitted to the Santa Barbara County Association of Governments for Fiscal Year 2016 includes \$71,663 for pedestrian and bicycle facilities. The funds are available based on a formula previously agreed to by the County of Santa Barbara and the cities within the County. Staff will use this money for bicycle and pedestrian projects, and as matching dollars when competing for state and federal bicycle and pedestrian grants.

PREPARED BY: Browning Allen, Transportation Manager/kts

SUBMITTED BY: Rebecca J. Bjork, Public Works Director

APPROVED BY: City Administrator's Office

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA AUTHORIZING THE FILING OF A CLAIM WITH THE SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS FOR ALLOCATION OF \$71,663 IN TRANSPORTATION DEVELOPMENT ACT FUNDS FOR FISCAL YEAR 2016

WHEREAS, the Transportation Development Act (TDA), as amended (Public Utilities Code Section 99220 et. seq.), provides for the allocation of funds from the Local Transportation Fund for use by eligible claimants for various transportation purposes; and

WHEREAS, pursuant to the provisions of the TDA, as amended, and pursuant to the applicable rules and regulations thereunder (21 Ca. Admin. Code Sections 6600 et. seq.), a prospective claimant wishing to receive an allocation from the Local Transportation Fund shall file its claim with the Santa Barbara County Association of Governments (SBCAG).

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1. The City's Transportation Manager is authorized to execute and file an appropriate claim with SBCAG pursuant to the terms of the TDA, as amended, and pursuant to the applicable rules and regulations promulgated thereunder, together with all the necessary supporting documents for an allocation of TDA funds in Fiscal Year 2016.

SECTION 2. The authorized claim includes \$71,663 for pedestrian and bicycle facilities.

SECTION 3. A copy of this Resolution shall be transmitted to SBCAG in conjunction with the filing of this claim.



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department

SUBJECT: Contract For Construction Of Elings Park Recycled Water Pump Station Project

RECOMMENDATION: That Council:

- A. Award a contract with Pacific Coast Excavation, in their low bid amount of \$213,874 for construction of the Elings Park Recycled Water Pump Station Project, Bid No. 3722; and authorize the Public Works Director to execute the contract and approve expenditures up to \$21,390 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment; and
- B. Authorize the Public Works Director to execute a contract with Mimiaga Engineering Group in the amount of \$23,400 for construction support services, and approve expenditures of up to \$2,340 for extra services of Mimiaga Engineering Group that may result from necessary changes in the scope of work.

DISCUSSION:

PROJECT DESCRIPTION

The Elings Park Recycled Water Pump Station Project (Project) consists of building a small concrete pad and retaining wall, installing a skid-mounted pump station, and building a concrete pad for a new Southern California Edison transformer. A black vinyl chain link fence will be installed around the pump station and one parking space for a maintenance vehicle. The project includes a landscape plan that screens the pump station from the Jerry Harwin Parkway. Elings Park staff will install and maintain landscaping for this Project.

The Pump Station will provide additional pressure to the Elings Park reclaimed water system. The Pump Station will not increase the total quantity of water delivered, but the water that is delivered will be at a higher pressure allowing the sprinklers to function more efficiently.

CONTRACT BIDS

A total of eight bids were received for the subject work, ranging as follows:

	BIDDER	BID AMOUNT
1.	Pacific Coast Excavation Santa Maria, CA	\$213,874.00
2.	Shaw Contracting Carpinteria, CA	\$223,612.00
3.	Tierra Contracting Goleta, CA	\$250,925.00
4.	Travis AG Construction Ventura, CA	\$251,038.00
5.	Brough Construction Arroyo Grande, CA	\$271,888.00
6.	Lash Construction Santa Barbara, CA	\$291,204.00
7.	V. Lopes Jr. & Sons Santa Maria, CA	\$293,852.50
8.	R. Burke Corporation San Luis Obispo, CA	\$306,941.00

The low bid of \$213,874, submitted by Pacific Coast Excavation, is an acceptable bid that is responsive to and meets the requirements of the bid specifications.

The change order funding recommendation of \$21,390, or 10 percent, is typical for this type of work and size of project.

COMMUNITY OUTREACH

Engineering staff has worked closely with the Elings Park Executive Director so that the Pump Station's construction and operation will not disrupt park operations.

FUNDING

There are sufficient funds in the Water Fund budget to fund this Project.
 The following summarizes the expenditures recommended in this report:

CONSTRUCTION CONTRACT FUNDING SUMMARY

	Basic Contract	Change Funds	Total
Pacific Coast Excavation	\$213,874	\$21,390	\$235,264
TOTAL RECOMMENDED AUTHORIZATION			\$235,264

The following summarizes all Project design costs, construction contract funding, and other Project costs:

ESTIMATED TOTAL PROJECT COST

**Cents have been rounded to the nearest dollar in this table.*

Design (by Contract)	\$47,300
City Staff Costs	\$63,307
Subtotal	\$110,607
Construction Contract	\$213,874
Construction Change Order Allowance	\$21,390
Subtotal	\$235,264
Construction Management/Inspection (by Contract)	\$25,730
Construction Management/Inspection (by City Staff)	\$17,597
Subtotal	\$43,327
TOTAL PROJECT COST	\$389,198

SUSTAINABILITY IMPACT:

Historically, Water Resources has used the La Mesa Pump Station to boost pressure to all of Phase II of the Recycled Water System. The La Mesa Pump Station provided enough pressure for irrigation at the top of Elings Park. This Project will provide enough pressure for Elings Park's irrigation needs without providing excess pressure throughout Phase II of the Recycled Water System. Based on historic use patterns, Elings Park could save \$18,000 annually in electricity billing.

PREPARED BY: Pat Kelly, Assistant Public Works Director/City Engineer/CW/kts

SUBMITTED BY: Rebecca J. Bjork, Public Works Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015
TO: Mayor and Councilmembers
FROM: Building and Safety Division, Community Development Department
SUBJECT: Contract Amendment For Contract Plan Review Services

RECOMMENDATION:

That Council approve an amendment to Agreement No. 21500032 to increase total compensation for contract plan review services and the associated Purchase Order by \$77,500 for a total of \$112,500.00.

DISCUSSION:

The requested increase is directly related to staffing vacancies and the ongoing demand for building plan review and electrical inspection services from developers and contractors. Increases in expenditures for these contract services are necessary in order to continue to deliver timely plan review and inspection services while vacancies are filled in the Building and Safety Division.

BUDGET/FINANCIAL INFORMATION:

Funds have been approved and appropriated by City Council in the Community Development Department's budget for Fiscal Year 2015.

ATTACHMENT: Amendment of Agreement No. 21500032
PREPARED BY: Andrew Stuffer, Chief Building Official
SUBMITTED BY: George Buell, Community Development Director
APPROVED BY: City Administrator's Office

First Amendment to

SANTA BARBARA CITY AGREEMENT NO. 21500032

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on _____ by and between the

CITY OF SANTA BARBARA,
a municipal corporation, hereinafter
referred to as "City";

and

California Code Check, a California
Corporation, hereinafter referred to a
as "Contractor",

WITNESSETH:

Whereas, the City requires the assistance of professional consultants, having the appropriate background, training, and experience necessary to assist the City to perform Building and Safety Division Services for plan review, inspection and other Division services.

Whereas, the City and Contractor have entered into City of Santa Barbara Agreement No. 21500032 for the performance of inspection and plan review services.

Whereas, Contractor has provided these services under the original Agreement. The City now wishes to revise the total compensation in order to allow for continued plan review and inspection services while filling current Division staff vacancies. City shall compensate Contractor in accordance with this First Amendment.

Now, therefore, the City and Contractor agree that Agreement No. 21500032 is amended to read as follows, all other provisions of the original agreement remain in full force and effect without amendment:

2. COMPENSATION

a. The original Contract amount of \$35,000.00 is increased by \$77,500.00 for a new not to exceed amount of \$112,500.00. The total compensation for all services provided pursuant to this Contract, including all extra services as defined in Section 3 hereof and reimbursable expenses, shall not exceed the sum of \$112,500 without the express written approval of an authorized representative of the City. The basic contract is for \$112,500 and the total that may be claimed for

Extra Services under Section 3 of this Contract shall not exceed \$0.00. This Contract provides the exclusive means of payment and reimbursement for costs to Contractor by the City.

b. Changes in personnel or in rates of compensation set forth in Exhibit A may be made only after written notice to and written approval by Department Head.

c. Where travel costs are included in Exhibit A, only the actual travel costs (at fare, rate per mile or lump sum approved), and/or actual expenses pursuant to the provisions of the Contract and within guidelines approved by the City Finance Director will be reimbursed.

d. Contractor may be reimbursed for such other necessary costs, including actual costs of copies, printing, postage, shipping and documents expense, and all costs of other materials, equipment, services and supplies, as approved and required to complete the work, according to the attached Exhibit A.

e. Compensation for Extra Services of Contractor authorized in accordance with Section 2 shall be paid to Contractor by City in accordance with the fee schedule set forth in Exhibit A. Contractor shall only be entitled to payment for Extra Services under this Contract if Contractor has obtained authorization required under Section 3 below.

f. Contractor shall submit itemized statements, which shall include a detailing of the number of hours spent on each task and copies of all subcontractors' invoices, to request payment in accordance with the standard billing format issued by the City Department. Contractor shall keep records concerning payment items on a generally recognized accounting basis and such records shall be maintained for a period of 3 years following the completion of the work assigned. Such records shall be made available for copying, inspection or audit by City employees or independent agents during reasonable business hours.

IN WITNESS THEREOF, the parties hereto have executed this Agreement in triplicate as of the day and year first above written.

CITY OF SANTA BARBARA
A Municipal Corporation

George Buell
Community Development Director

ATTEST:

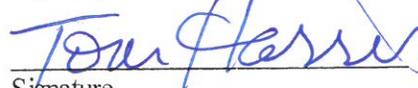
Gwen Peirce, CMC
City Clerk Services Manager

APPROVED AS TO CONTENT:



Andrew Stuffer
Chief Building Official

Name of Consultant/Firm



Signature



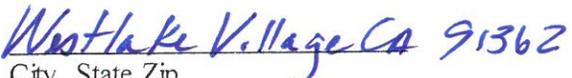
Type or Print Name



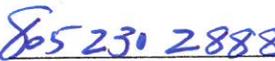
Title



Address



City, State Zip



Phone Number

APPROVED AS TO FORM:
Ariel Pierre Calonne
City Attorney

By _____

Business Tax Compliance:
Certificate No. _____

By _____

Approved as to Insurance:

Mark Howard
Risk Manager



BUILDING AND SAFETY DIVISION

REQUEST FOR PROPOSALS

PLAN REVIEW AND INSPECTION SERVICES

SECTION 5 PROFESSIONAL SERVICES FEES

FEES FOR SERVICES

BUILDING PLAN REVIEW	HOURLY (1 hour min. fee)
Building Plan Review Fee <i>CCC fees not to exceed City fees on new construction.</i>	\$ 125.00 / hour
Accelerated Plan Review	\$ 187.50 / hour
ON-SITE PERSONNEL, (4 hour minimum / day)	HOURLY**
On-Site, Plans Examiner	\$ 125.00 / hour
On-Site, Building Inspector	\$ 79.00 / hour
Mileage (adjusted when IRS rate changes) – current rate: \$ 0.56 / mile	IRS Rate
SPECIALIZED PERSONNEL, (1 day minimum)	HOURLY**
Specialized Plans Examiners / Engineers - i.e. CASp, Electrical Specialist or Other Specialized Plans Examiners	\$ 1,400.00 / day <i>Billed per day, no partial day rates</i>
Special Inspections - i.e. CASp, Electrical Specialist or Other Specialized Inspector	\$ 1,400.00 / day <i>Billed per day, no partial day rates</i>
Mileage for Inspections (adjusted when IRS rate changes) – current rate: \$ 0.56 / mile	IRS Rate
ADDITIONAL POSITIONS AVAILABLE	Fees: Negotiable
<p>*Any travel expenses that may apply for meetings will be advised/ negotiated prior to the rendering of those services. **Overtime will be charged at 1.5 times the standard hourly rate (If working a 4/10 schedule, OT is over 10 hours on any day and/or over 40 hours per week and weekends. Same principle applies to 9/80 schedules). Any travel expenses that may apply for meetings will be advised/ negotiated prior to the rendering of those services. Reproducibles requested will be charged at cost plus 15%. Invoices are created bi-monthly, under Net 30 terms.</p>	



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015

TO: Mayor and Councilmembers

FROM: City Attorney's Office

SUBJECT: Sidewalk Behavior and Panhandling Ordinances

RECOMMENDATION: That Council introduce and subsequently adopt, by reading of title only, the following Ordinance Committee recommended ordinances:

- A. An Ordinance Of The Council Of The City Of Santa Barbara Amending Section 2.28.030 Of The Santa Barbara Municipal Code To Grant The Library Director The Authority To Promulgate And Post Facility Specific Regulations;
- B. An Ordinance Of The Council Of The City Of Santa Barbara Amending Title 9 Of The Municipal Code By Adding Chapter 9.07 To Prohibit Urinating Or Defecating In Public;
- C. An Ordinance Of The Council Of The City Of Santa Barbara Amending Section 9.48.010 Of The Municipal Code Regarding Commercial Use Of City Streets To Prohibit The Use Of Public Street Furniture As A Venue For Selling Or Offering For Donation;
- D. An Ordinance Of The Council Of The City Of Santa Barbara Amending Section 9.50.010 Of The Santa Barbara Municipal Code To Prohibit Active Panhandling In Specified Locations;
- E. An Ordinance Of The Council Of The City Of Santa Barbara Amending Section 9.97.010 Of The Santa Barbara Municipal Code Regarding Sitting Or Lying On Sidewalks And Paseos Along Certain Downtown Portions Of State Street; and
- F. An Ordinance Of The Council Of The City Of Santa Barbara Amending Section 9.98.010 Of The Santa Barbara Municipal Code Regarding Pedestrians Blocking Public Sidewalks.

EXECUTIVE SUMMARY:

The Council authorized the Ordinance Committee to consider a series of proposed updates to various sidewalk behavior and panhandling ordinances. The Ordinance Committee met three times and recommended approval of the attached package of ordinance updates.

DISCUSSION:

Background

On April 22, 2014, Council considered a request from Councilmembers Hotchkiss and Rowse regarding the "Sit-Lie and Abusive Panhandling Ordinance." (Attachment "A.") Council voted unanimously (6-0, Francisco absent) to refer the matter to the Ordinance Committee for further consideration and review. The request included:

- Expanding the 7:00 a.m. to 9:00 p.m. hours of the current Sit/Lie prohibition;
- Adding a prohibition on sitting, standing or lying down upon any planting, railing or statue placed or installed on a public sidewalk;
- Expanding the "active" panhandling prohibition near ATM's from 25 feet to 80 feet, subject to constitutional analysis by the City Attorney;
- Expanding the "active" panhandling prohibition to other areas where there are captive audiences, such as buses and other public transportation vehicles;
- Prohibiting urinating or defecating in public;

The request also suggested directing the City Attorney to undertake research and report back to the Ordinance Committee (Council Members Rowse, Hotchkiss and Murillo) on the legal feasibility of adding to the municipal code the following considerations:

- A prohibition on groups of people congregating in a manner that blocks the free movement of pedestrian traffic on our downtown sidewalks;
- A prohibition on the use of public benches and street furniture for the storage, sale or display of merchandise or personal items;
- A prohibition on active panhandling within a prescribed distance of a queue of persons waiting to gain admission to a place of business and outdoor dining areas;

On June 10, 2014, the Ordinance Committee considered the matter and directed the City Attorney to return with proposed ordinances and regulations on these subjects. The Committee provided the following directions:

- Extend the downtown State Street "sit-lie" prohibition, which currently applies from 7 a.m. to 9 p.m., until 2 a.m. The Committee noted that the purpose of the sidewalk is to provide safe and unobstructed pedestrian access "from point A to point B." The time extension was requested in order to avoid ongoing conflicts between late night entertainment patrons and use of the sidewalk. The Committee also noted that the police would be aided by limiting the need to monitor whether someone who was down on the sidewalk near a bar or club was incapacitated or in need of assistance.
- Extend the State Street "sit-lie" prohibition to include railings, statues, sculptures and planter areas within the designated blocks of downtown State Street.
- Consider an 80 foot "no active panhandling" zone around ATM's.
- Prohibit active panhandling on buses or other public transportation vehicles.
- Prohibit urinating or defecating in public.

- Prohibit street or sidewalk obstruction by congregations of people.
- Prohibit the use of street furniture to display goods for sale or offering for donation.
- Prohibit active panhandling within 25 feet of outdoor dining areas and queues of persons waiting to gain admission to a place of business or vehicle, or waiting to purchase an item or admission ticket.
- Authorize the Library Director to promulgate regulations for the use of library facilities.

On October 21, 2014, the Ordinance Committee met and heard extensive public testimony (16 speakers) on the ordinance amendments reflecting the June 10 directions. The Committee then continued the matter for deliberation on October 28. After deliberation, the Committee made the following recommendations to Council:

- Approve the prohibition on urinating or defecating in public. 3-0. Proposed SBMC § 9.07.010 -- Attachment 1.
- Approve the prohibition the use of street furniture to display goods for sale or offering for donation. 3-0. SBMC § 9.48.010 as amended, -- Attachment 2.
- Approve the prohibition on active panhandling within 25 feet of outdoor dining areas and admission queues and on buses or other public transportation vehicles. 3-0. SBMC § 9.50.030 as amended -- Attachment 3.
- Approve the prohibition on active panhandling within 50 feet of ATMs (reduced from June 80 foot proposal). 2-1, Murillo opposed. SBMC § 9.50.030 as amended -- Attachment 3.
- Approve extending the downtown State Street sit-lie prohibition from 9 p.m. to 2 a.m. 2-1 Murillo opposed. SBMC § 9.97.010 as amended -- Attachment 4.
- Approve extending the sit-lie prohibition to include railings, statues, sculptures and planter areas. 2-1 Murillo opposed. SBMC § 9.98.010 A. as amended -- Attachment 5.
- Approve the updated prohibition on congregations of people obstructing the sidewalk, provided the police have first ordered the group to disperse because of an immediate threat to public safety. 3-0. SBMC § 9.98.010 A. as amended -- Attachment 5.
- Approve the authorization for the Library Director to promulgate facility use regulations. 3-0. SBMC § 2.28.030 as amended Attachment 6.

The Attachments 1 through 6 implement the Ordinance Committee's recommendations to Council.

Analysis

Review of the June 10th and October 21st 2014 Ordinance Committee Reports

The attached June 10 and October 21, 2014 reports from this office analyze the serious legal concerns raised by the proposed ordinance amendments. (Exhibits 7 and 8.) In short, many of the proposals implicate First Amendment speech and Eighth Amendment cruel and unusual punishment issues. Whether the ordinances will survive constitutional scrutiny depends upon many factors, as outlined in the earlier reports.

June 10th Report

As described in the italicized quote from Exhibit 7 below, it is very important that Council focus on and specifically identify the significant governmental interests it wishes to further so that the regulations can be appropriately tailored to meet Santa Barbara's needs. The City has a significant governmental interest, for example, in avoiding traffic congestion, public safety, avoiding visual clutter, and crowd control. Council needs to articulate the legitimate interests it seeks to protect and further with these regulations.

By way of contrast, the City does not have a legitimate governmental interest in, for example, taking actions to suppress the 1st Amendment rights of the homeless. We mention this so directly because, as did the Ordinance Committee, Council will have to sift through public comments that may not recognize or respect the constitutional rights of all segments of the community. Evolving case law teaches that the Council should distance itself from uninformed public commentary when considering regulations that impact 1st Amendment interests.

As we put it on June 10th:

"The Council may generally enact reasonable time, place and manner restrictions upon constitutionally protected speech (such as begging for alms or panhandling), provided that the regulations are content-neutral, narrowly drawn, necessary to further a significant government interest, and allow for ample alternative channels for communication.

Content neutrality is critical. Accordingly, objections to panhandling or panhandlers may not be used to justify regulations:

"The principal inquiry in determining content neutrality, in speech cases generally and in time, place, or manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with the message it conveys." Ward v. Rock Against Racism, 491 U.S. 781, 791 (1989).

And, there must be “no evidence that the city adopted the ordinance because of a disagreement with the message” Honolulu Weekly, Inc. v. Harris, 298 F.3d 1037, 1044 (9th Cir. 2002).

Regulations must also be narrowly drawn or “tailored.” However, the courts are clear that:

“‘Narrow tailoring’ does not require the government to adopt the ‘least restrictive or least intrusive means of serving the statutory goal’ when the regulation does not completely foreclose any means of communication. The requirement that the regulation be ‘narrowly tailored’ will be met ‘so long as the . . . regulation promotes a substantial government interest that would be achieved less effectively absent the regulation’ and the regulation is not ‘substantially broader than necessary to achieve the government’s interest.’” Honolulu Weekly, Inc. v. Harris, 298 F.3d 1037, 1045 (9th Cir. 2002), citations omitted.

The Ordinance Committee should also consider and describe the significant governmental interests it wishes to further so that the regulations can be appropriately tailored to meet Santa Barbara’s needs. The City has a significant governmental interest, for example, in traffic congestion, public safety, avoiding visual clutter, and crowd control. As the United States Supreme Court has put it:

“Nor could one, contrary to traffic regulations, insist upon a street meeting in the middle of Times Square at the rush hour as a form of freedom of speech or assembly. Governmental authorities have the duty and responsibility to keep their streets open and available for movement.” Cox v. State of La., 379 U.S. 536, 554-55 (1965).

Ample alternative channels of communication must also be left open. This means that it will be necessary to do relatively precise mapping of the City’s downtown core areas in order to determine whether expanded “place” regulations – like expanding the ATM panhandling prohibition from 25 to 80 feet – leave open ample alternative channels for communication.

With respect to sitting and lying down regulations, Eighth Amendment cruel and unusual punishment concerns may arise when insufficient shelter space is available and an ordinance criminalizes behavior such as sitting, lying, or sleeping at night while being involuntarily homeless. The Ordinance Committee should be cautious to take these concerns into account as it seeks legal guidance on potential ordinance changes.”

As quoted above, we advised the Ordinance Committee to direct preparation of detailed maps depicting the new areas in which active panhandling is to be prohibited. The purpose of these maps, attached as Exhibit 9, is to allow the Council to consider whether ample alternative channels of communication exist for protected speech (like active panhandling). The maps have been updated to reflect the Ordinance Committee’s rejection of a prohibition on active panhandling within 80 feet of ATMs.

Police Department testimony suggested that 80 feet was unnecessarily large for public safety but that 25 feet was too small. The Ordinance Committee settled on 50 feet, 2-1 Murillo opposed.

October 21st Report

Our October 21, 2014 report provided a point-by-point legal analysis of the standards governing Council's actions on the various proposed code amendments. It is quoted below:

“Prohibition against Urinating or Defecating in Public

This proposed code amendment is a straightforward exercise of the City's police power to protect the public health, safety, and welfare. There are ample public toileting facilities in Santa Barbara.

Prohibition on Using Public Street Furniture for the Display of Wares for Sale or Donation

*Restricting the sale of goods in public can have First Amendment implications when goods bearing expressive messages, such as printed T-shirts or literature, are being sold. In *One World One Family Now v. City and County of Honolulu* (9th Cir. 1996) 76 F.3d 1009, Honolulu was faced with objections from visitors and local residents, as well as merchants, who complained that street T-shirt sales on one of the busiest commercial streets in Waikiki created a sidewalk obstruction and visual eyesore, and competed unfairly with “brick and mortar” stores. The city began enforcing a local ordinance that banned the sale of all “goods, wares, merchandise, foodstuffs, refreshments or other kinds of property or services ... upon the public streets, alleys, sidewalks, malls, parks, beaches and other public places in Waikiki.” (Id. at p.1011.) After being threatened with prosecution, the plaintiffs (who sold printed T-shirts with messages like “TAKE IT EASY MEDITATE HANG LOOSE HAWAII” and “WAIKIKI HAWAII HARINAM”) sued under the federal civil rights law.*

The Ninth Circuit Court of Appeals began its analysis by acknowledging that “when the sale of merchandise bearing political, religious, philosophical or ideological messages is ‘inextricably intertwined’ with other forms of protected expression (like distributing literature and proselytizing), the First Amendment applies.” (Id. at p.1012.) The Court found that the T-shirts in question met that standard; thus the sales activities were entitled to First Amendment protection.

The Court went on to apply the familiar “time, place and manner” rules:

“We use the standard governing time, place and manner restrictions. Such restrictions are valid if they (1) are content-neutral; (2) are narrowly tailored to serve a significant governmental interest; and (3) leave open ample alternative channels of communication.” (Ibid.)

As to content neutrality, the Court held that:

“A speech restriction is content-neutral if it is “justified without reference to the content of the regulated speech.” “A regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others.” The test is whether the government has adopted the restriction “because of disagreement with the message it conveys.” (Ibid; citations omitted, emphasis added.)

The Ordinance Committee’s proposal to ban the sale of all goods from public street furniture does not reflect disagreement with any particular speech message because it is generally applicable to all goods.

The Court also recognized three significant governmental interests that the sales ban legitimately promoted, each of which applies to a tourism-focused city like Santa Barbara as well as it did to Honolulu’s Waikiki: “(1) ‘maintaining the aesthetic attractiveness of Waikiki,’ (2) ‘promoting public safety and the orderly movement of pedestrians,’ and (3) ‘protecting the local merchant economy.’” (Ibid.)

Finally, the Court concluded that:

“Honolulu’s peddling ordinance also leaves open ample alternative channels of communication. The ordinance forecloses one narrow form of expression—sidewalk sales of message-bearing merchandise—and leaves the plaintiffs free to disseminate and seek financial support for their views through “myriad and diverse” alternative channels, such as handing out literature, proselytizing or soliciting donations. In addition, plaintiffs’ volunteers may hand out free T-shirts to passers-by, or mingle with Waikiki’s tourist throngs wearing T-shirts (thereby acting as human billboards). Plaintiffs may also sell T-shirts through local retail outlets or by opening their own stores, so long as they comply with the regulations generally applicable to merchants.” (Id. at p.1014.)

Based upon the One World One Family Now case, we believe Santa Barbara may legitimately include public street furniture among the locations where street vending is prohibited.

Expanded Safety Zones around Sensitive Locations Where Captive Audiences Feel Threatened By Active Panhandling

On June 10, 2014, the Ordinance Committee expressed serious concerns about safety around ATMs, movie queues, public benches, and outdoor dining areas because these are locations where persons who are being solicited are confined to restricted areas as captive audiences. In those situations, the persons being solicited are most likely to experience a sense of powerlessness, and to be intimidated by an unwanted effort by a panhandler to solicit donations. The Committee requested further analysis of adding or expanding safety buffer zones (within which panhandling would be prohibited) around these sensitive locations.

There is little doubt that valid time, place and manner regulations may prohibit abusive panhandling altogether, while prohibiting and allowing active or passive panhandling in specified locations only. The question for the Ordinance Committee and Council is whether the areas where active and passive panhandling would be prohibited – the expansion of the 25-foot buffer around ATMs to 80 feet, and the addition of a 25-foot buffer around movie queues, public benches, and outdoor dining areas – would leave open ample alternative channels for communication. This analysis is fundamentally data-driven.

We have approached the issues empirically by mapping the downtown core business areas and the areas affected by the proposed expanded safety zones. Over the summer, the City's GIS staff mapped the locations of ATMs, movie queues, public benches, outdoor dining areas and paseos on the State Street and Milpas Street corridors as they are currently regulated by the City. These facilities and locations were chosen because the Ordinance Committee identified them as locations where an additional safety buffer might be needed to address the recent increase in problematic panhandling. An overview map of State Street is attached as Exhibit "6" and more detailed maps of each block of State Street (400 to 1200) are provided as Exhibits "7" through "15."

The maps show that the proposed safety buffers have the effect of prohibiting panhandling in many areas of State Street. The Ordinance Committee should carefully consider these maps and determine whether ample alternative areas are provided for protected speech activities including panhandling.

Extending the Existing "Sit/Lie" Prohibition on State Street from 7:00 A.M. to 2:00 A.M. of the Following Day, Rather than 9:00 P.M.

The major legal issues presented are whether extending the hours of the existing sit/lie prohibition from 9:00 p.m. to 2:00 a.m. on State Street implicates either First Amendment or Eighth Amendment (cruel and unusual punishment) concerns.

The First Amendment concerns are familiar, and for the purposes of this analysis we assume without conceding that expressive conduct may be implicated by the act of

*sitting or lying down upon a sidewalk. Using the time, place and manner regulatory test, the proposed extension to 2:00 a.m. is clearly content-neutral. The significant governmental interests include the need for free pedestrian passage on crowded State Street, in this case focusing upon the late evening hours when the vibrant State Street nightlife scene causes conflict between revelers walking or milling about and those who might seek to sit or lie down upon the sidewalks. Because the regulations cover only the busiest portion of the busiest street in Santa Barbara, we believe ample alternative locations are available to sit or lie down on the public sidewalk. (See *Roulette v. City of Seattle* (9th Cir. 1996) 97 F.3d 300.)*

*The Eighth Amendment cruel and unusual punishment concerns are less familiar, and arise out of the potential disparate impact sit/lie regulations may have upon the homeless population. These concerns were noted in a now-vacated Ninth Circuit case called *Jones v. City of Los Angeles* (9th Cir. 2006) 444 F.3d 1118 (the opinion was withdrawn after the City settled the lawsuit). In *Jones*, homeless individuals brought a federal civil rights action seeking limited injunctive relief against enforcement of a Los Angeles ordinance that criminalized sitting, lying, or sleeping on public streets and sidewalks at all times and in all places within City. The plaintiffs argued, successfully, that the ordinance constituted cruel and unusual punishment because penalized homeless persons were on the streets due to the lack of available shelter space – effectively criminalizing their status as homeless rather than any distinct criminal conduct.*

The Court began its analysis by declaring Los Angeles' ordinance "one of the most restrictive municipal laws regulating public spaces in the United States," noting that unlike Santa Barbara's ordinance, the L.A. regulation applied citywide and at all hours of the day or night. The Court went on to explain that:

*"The City could not expressly criminalize the status of homelessness by making it a crime to be homeless without violating the Eighth Amendment, nor can it criminalize acts that are an integral aspect of that status. Because there is substantial and undisputed evidence that the number of homeless persons in Los Angeles far exceeds the number of available shelter beds at all times, including on the nights of their arrest or citation, Los Angeles has encroached upon Appellants' Eighth Amendment protections by criminalizing the unavoidable act of sitting, lying, or sleeping at night while being involuntarily homeless. A closer analysis of *Robinson and Powell* instructs that the involuntariness of the act or condition the City criminalizes is the critical factor delineating a constitutionally cognizable status, and incidental conduct which is integral to and an unavoidable result of that status, from acts or conditions that can be criminalized consistent with the Eighth Amendment." (*Jones v. City of Los Angeles* (9th Cir. 2006) 444 F.3d 1118, 1132 vacated, (9th Cir. 2007) 505 F.3d 1006; emphasis added.)*

Importantly, the Court concluded by stating that:

“By our decision, we in no way dictate to the City that it must provide sufficient shelter for the homeless, or allow anyone who wishes to sit, lie, or sleep on the streets of Los Angeles at any time and at any place within the City. All we hold is that, so long as there is a greater number of homeless individuals in Los Angeles than the number of available beds, the City may not enforce section 41.18(d) at all times and places throughout the City against homeless individuals for involuntarily sitting, lying, and sleeping in public.” (Jones v. City of Los Angeles (9th Cir. 2006) 444 F.3d 1118, 1138 vacated, (9th Cir. 2007) 505 F.3d 1006; emphasis added.)

Jones is clearly distinguishable from Santa Barbara’s ordinance in that the City’s ordinance applies only to a limited portion of one street during limited hours. Nonetheless, if the Court is persuaded that Santa Barbara’s ordinance is aimed at homelessness, rather than late night street obstruction of State Street revelers and daytime obstruction of tourists and residents in the City’s core commercial area, the City may face a legal challenge under the theory that extending the sit/lie ban until 2:00 a.m. inappropriately burdens those who have nowhere else to sleep. It is important to note that Jones is not the law, but only a potential insight into the Ninth Circuit’s current thinking.

Revising the Prohibition on Pedestrians Blocking Sidewalks to Include Congregated Groups of People

Laws prohibiting congregations of people in public forums, such as sidewalks, squarely implicate First Amendment speech and assembly rights. The initial question presented is whether the City’s existing circa-1966 regulation meets current constitutional scrutiny.

Santa Barbara Municipal Code section 9.98.010 provides as follows:

9.98.010 Unlawful.

No person shall stand or sit in or upon any street, sidewalk or crosswalk in the City in any manner so as to hinder or obstruct the free passage of pedestrians thereon, or to annoy or molest such pedestrians. (Ord. 3162 §1, 1966.)

While simple enough on its face, this ordinance raises serious First Amendment considerations, particularly if it is revised to address congregations of people on sidewalks at any time or place, because it would then broadly prohibit even speech-related activities, such as peaceful protests or picketing, which might “annoy” pedestrians or “hinder” their free passage.

The United States Supreme Court has long held that:

“Access to the ‘streets, sidewalks, parks, and other similar public places . . . for the purpose of exercising (First Amendment rights) cannot constitutionally be denied broadly . . .’ Free expression ‘must not, in the guise of regulation, be abridged or denied.’” (Grayned v. City of Rockford (1972) 408 U.S. 104, 117.)

On the other hand, focused restrictions on the time, place and manner of street (or sidewalk) protests can be upheld:

“The control of travel on the streets is a clear example of governmental responsibility to insure this necessary order. A restriction in that relation, designed to promote the public convenience in the interest of all, and not susceptible to abuses of discriminatory application, cannot be disregarded by the attempted exercise of some civil right which, in other circumstances, would be entitled to protection. One would not be justified in ignoring the familiar red light because this was thought to be a means of social protest. Nor could one, contrary to traffic regulations, insist upon a street meeting in the middle of Times Square at the rush hour as a form of freedom of speech or assembly. Governmental authorities have the duty and responsibility to keep their streets open and available for movement. A group of demonstrators could not insist upon the right to cordon off a street, or entrance to a public or private building, and allow no one to pass who did not agree to listen to their exhortations.” (Cox v. State of La. (1965) 379 U.S. 536, 554-55; emphasis added.)

Santa Barbara’s existing Chapter 9.98 may be too broad to meet constitutional requirements because, on its face, it would prohibit a large array of constitutionally protected speech activities, such as peaceful protest and picketing.

This conclusion raises the next question, namely, can SBMC Chapter 9.98 be amended to narrow its reach to fit within constitutional dimensions. We would advise amending the existing ordinance to read as follows:

9.98.010 Unlawful Street or Sidewalk Obstruction.

No person shall stand, or sit, or congregate in or upon any street, sidewalk or crosswalk in the City in any manner so as with the intent to hinder or obstruct the free passage of pedestrians thereon, or to annoy or molest such pedestrians, or to block the entrance to a building, and refuse to disperse after having been ordered to do so by the police when the police reasonably believe an immediate threat to public safety is present.

~~9.98.020 Parade Viewing Excepted.~~

~~This chapter shall not apply to persons engaged in viewing a parade duly and regularly permitted by the City.~~

The proposed amendment adds an intent requirement and a requirement that the police order dispersal only in those situations where the sidewalk or street obstruction threatens public safety. This will allow the police to stop violent protests, which are not protected by the First Amendment, while still avoiding interference with constitutionally-protected speech activities on the streets and sidewalks. We also advise repealing SBMC section 9.98.020, which creates an exemption for persons viewing a parade. This exemption is unnecessary given the proposed public safety limitation on the ordinance, and may appear to be a difficult-to-defend content-based restriction.

With these amendments, we believe Chapter 9.98 may minimize First Amendment concerns while providing a useful tool to deal with persons who intentionally obstruct the sidewalks or streets, and who refuse to disperse when ordered to do so by the police in order to mitigate immediate threats to public safety.

Delegating the Library Director the Authority to Promulgate Regulations for the Use of the Libraries, Including the Central Library and its Outdoor Plaza

The City Council has the police power to regulate the use of public facilities including the libraries. This power may be delegated to the Library Director. The proposed ordinance (Exhibit 5A) grants the Library Director the authority to promulgate criminally enforceable regulations that would govern behavior at the City's library facilities."

CONCLUSION:

Council should carefully consider the accompanying package of proposed sidewalk behavior and panhandling ordinances. We will be available to address the numerous legal issues implicated by these proposed actions.

- ATTACHMENT(S):**
- A. April 22, 2014 Memo-Council Members Hotchkiss and Rowse
 - 1. Proposed SBMC § 9.07.010
 - 2. SBMC § 9.48.010 as amended
 - 3. SBMC § 9.50.030 as amended
 - 4. SBMC § 9.97.010 as amended
 - 5. SBMC § 9.98.010 A. as amended
 - 6. SBMC § 2.28.030 as amended
 - 7. Council Agenda Report dated June 10, 2014
 - 8. Council Agenda Report dated October 21, 2014
 - 9. State Street Active Panhandling Restriction Maps

PREPARED BY: Ariel Calonne, City Attorney

SUBMITTED BY: Ariel Calonne, City Attorney

APPROVED BY: City Administrator's Office



Agenda Item No. 9

File Code No. 520.04

CITY OF SANTA BARBARA

ATTACHMENT A

COUNCIL AGENDA REPORT

AGENDA DATE: April 22, 2014

TO: Mayor and Councilmembers

FROM: City Administrator's Office

SUBJECT: Request from Councilmember Hotchkiss and Councilmember Rowse Regarding The Sit-Lie And Abusive Panhandling Ordinance

RECOMMENDATION:

That Council consider the request from Councilmember Hotchkiss and Councilmember Rowse regarding a referral to the Ordinance Committee on the Sit-Lie and Abusive Panhandling Ordinance.

DISCUSSION:

Attached is a memorandum from Councilmember Hotchkiss and Councilmember Rowse requesting that Council receive a report on discussions with the downtown business community regarding specific proposals to update the Sit-Lie and Abusive Panhandling Ordinance, consider enacting a new ordinance prohibiting urination and defecation in public, and refer the matter to the Ordinance Committee for further consideration and review.

ATTACHMENT: Memorandum from Councilmember Hotchkiss and Councilmember Rowse

PREPARED BY: Jennifer Jennings, Administrator's Office Supervisor

SUBMITTED BY: Jim Armstrong, City Administrator

APPROVED BY: City Administrator's Office



City of Santa Barbara
Mayor & Council Office

Memorandum

DATE: April 3, 2014

TO: James L. Armstrong, City Administrator

FROM: Council Members Frank Hotchkiss and Randy Rowse

SUBJECT: Sit-Lie and Abusive Panhandling Ordinance Referral to Ordinance Committee

- Summary of Information to be Presented to the City Council

Receive a report on discussions with the downtown business community regarding specific proposals to update the Sit-Lie and Abusive Panhandling Ordinances. Consider enacting a new ordinance prohibiting urinating or defecating in public. Refer the matter to the Ordinance Committee for further consideration and review.

- Statement of Specific Action the Council will be asked to take

The municipal code currently prohibits sitting or lying down on public sidewalks and paseos along the first thirteen blocks of State Street during the hours between 7:00 a.m. and 9:00 p.m. We would propose expanding the hours of the prohibition and adding a prohibition on sitting, standing or lying down upon any planting, railing or statue placed or installed on a public sidewalk.

The municipal code currently prohibits abusive panhandling anywhere in the City. "Active" panhandling – meaning a verbal (oral) request seeking a donation of money or other item of value is prohibited in certain locations only. For example, active panhandling is currently prohibited within 25 feet of any ATM. We would propose increasing this area to approximately 80 feet, subject to analysis by staff of the impacts on the constitutionally-required alternative locations for solicitation speech. We would also propose expanding the ban on solicitation to busses and other public transportation vehicles.

Neither the municipal code nor state law directly prohibits urinating or defecating in public. While this behavior may be prosecuted under state law as a nuisance, this form of action constitutes a misdemeanor that falls to the District Attorney's Office for prosecution. We propose adding a prohibition on urinating or

defecating in public to the municipal code in order to facilitate enforcement against this nuisance behavior.

Finally, we would like Council to direct the City Attorney to undertake research and report back to the Ordinance Committee on the legal feasibility of adding to the municipal code the following considerations:

- A prohibition on groups of people congregating in a manner that blocks the free movement of pedestrian traffic on our downtown sidewalks;
- A prohibition on the use of public benches and street furniture for the storage, sale or display of merchandise or personal items;
- A prohibition on active panhandling within a prescribed distance of a queue of persons waiting to gain admission to a place of business and outdoor dining areas.
- A requirement for appropriate signage to inform the public of these regulations

We believe all of these issues should be referred to the Ordinance Committee for further consideration and review. We also believe the Ordinance Committee should hear from our Police Department on current enforcement issues that might be further addressed.

- Statement of the Reasons Why it is Appropriate and Within the Jurisdiction of the Council to Consider this Subject Matter and to Take the Requested Action

Improving the quality of life for all Santa Barbara residents is a crucial function of the City Council. We believe our modest proposals will do just that.

cc: Mayor and Council
Cam Sanchez, Police Chief
Ariel Calonne, City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA BARBARA AMENDING
TITLE 9 OF THE MUNICIPAL CODE BY
ADDING CHAPTER 9.07 TO PROHIBIT
URINATING OR DEFECATING IN PUBLIC

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS
FOLLOWS:

SECTION 1. Title 9 of the Santa Barbara Municipal Code is amended by adding Chapter
9.07 which reads as follows:

Chapter 9.07 Urinating or Defecating in Public.

9.07.010 Urinating or Defecating in Public Prohibited.

No person shall defecate or urinate in public or upon any street, sidewalk, or other public
place.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA BARBARA AMENDING
SECTION 9.48.010 OF THE MUNICIPAL CODE
REGARDING COMMERCIAL USE OF CITY
STREETS TO PROHIBIT THE USE OF PUBLIC
STREET FURNITURE AS A VENUE FOR
SELLING OR OFFERING FOR DONATION

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS
FOLLOWS:

SECTION 1. FINDINGS AND PURPOSES.

The City Council finds that these regulations are necessary to maintain the aesthetic attractiveness of Santa Barbara which depends heavily on its tourism-based economy for its financial vitality. These regulations are also necessary in order to promote public safety and the orderly movement of pedestrians, particularly in the crowded downtown core, where on-street or on-sidewalk vending will present a substantial obstruction to pedestrian and vehicular traffic. Finally, these regulations are essential to protect the local merchant economy which would be undersold and threatened economically by competition from street vendors who do not pay rent or other overhead expenses.

SECTION 2. Section 9.48.010 of Chapter 9.48 of Title 9 of the Santa Barbara Municipal Code is amended to read as follows:

9.48.010 Commercial Use of City Streets.

A. GENERALLY. It shall be unlawful for any person, whether acting as principal, agent, clerk, employee, or otherwise, to use any public street, public parking lot, public street furniture, or public sidewalk in the City for the purpose of selling, vending,

offering for donations, offering for sale or soliciting or receiving orders for the sale of any goods, wares or merchandise.

B. SALE OF NEWSPAPERS. Notwithstanding subsection A hereof, nothing herein shall prohibit any person from selling or offering for sale newspapers, magazines and periodicals upon any of the public sidewalks of the City in the present customary and usual manner of selling and offering for sale of newspapers, magazines, and periodicals in the City.

C. EXEMPTION FOR SIDEWALK SALES, FARMERS' MARKETS, AND SIDEWALK CAFE TABLES. Notwithstanding subsection A hereof, an individual or an organization may, upon the issuance of a permit by the Director of Public Works in accordance with the requirements of this Chapter and the administrative regulations adopted pursuant hereto, use a public street or sidewalk in the City for the following limited purposes:

1. Sidewalk Sales. A retail business licensed to do business at a location within the City may conduct a sale of merchandise on a City sidewalk under the following conditions:

- a. The sale occurs only on a public sidewalk immediately adjacent to the retail business;
- b. The retail business does not conduct such sidewalk sales for more than a total of ten (10) days for each calendar year provided, however, that those businesses within a two (2) block radius of a construction project which impacts pedestrian or vehicular access to the City block within which the business is located for a period exceeding fourteen (14) consecutive days may be allowed up to twenty (20) days for sidewalk sales during the year in which the construction project is undertaken.

2. Farmers' Markets. An individual or an organization may use a public street or City parking lot for the purpose of conducting a Certified Farmers' Market [as defined and provided for in Title 3, Chapter 3 of the California Code of Regulations] under the following conditions:

a. The merchandise offered for sale at the Farmers' Market is allowed to be sold at a Certified Farmers' Market;

b. The use of the street or public parking lot is authorized by and pursuant to a written license agreement between the City and the Market sponsor, which license agreement limits the Market to a specified day or days of the week and to certain limited hours;

c. The vendors of merchandise at the Farmers' Market are authorized to conduct such sales by the organization sponsoring the Market and entering into the license agreement with the City.

3. Limited Nonprofit Sidewalk Sales. In connection and concurrent with a Parade or Event (as permitted and defined in Municipal Code Section 9.12.020), which Parade or Event is sponsored by a nonprofit entity (as evidenced by tax-exempt status under state and federal tax laws), a public sidewalk may be used for the limited merchandising of items or services under the following conditions:

a. The sidewalk sales may occur for a period not to exceed five (5) days in any calendar year, and the sales must be concurrent with the associated Parade or Event;

b. The location of any booth or table used by a sidewalk vendor under this subsection shall be at a specific location approved in advance by the City;

c. The net proceeds received by the nonprofit corporation from such sales are to be devoted exclusively for the benefit of the sponsoring nonprofit organization(s);

d. The persons conducting such sales are authorized in writing to do so by the nonprofit organization sponsoring the event;

e. For the purposes of this subsection, the word “concurrent” shall be defined as occurring within the same calendar week (Sunday through Saturday).

4. Sidewalk Sales in Connection with a Reserved Park Event. A public street or sidewalk immediately adjacent to a City park facility may be used for the limited merchandising of items under the following conditions:

a. The person or organization sponsoring the merchandising is a nonprofit entity, and it has reserved the adjacent park facility for an event pursuant to the requirements of Santa Barbara Municipal Code Chapter 15.05 and 15.16; and, event;

b. The sales occur only during the time the park is being used for the reserved event;

c. The persons conducting such sales are authorized in writing to do so by the nonprofit sponsoring the event;

d. The net proceeds received by the nonprofit corporation from such sales are to be devoted exclusively for the benefit of the sponsoring nonprofit organization.

5. Sidewalk Cafe Tables Under Chapter 9.95. For the placement of sidewalk cafe tables in accordance with Santa Barbara Municipal Code Chapter 9.95.

D. SIDEWALK MERCHANDISING REGULATIONS AND PERMITS. The City Administrator, acting by and through the Director of Public Works, is hereby directed to

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prepare an appropriate administrative process (along with related administrative regulations) for the City's acceptance, review, and processing of applications for the issuance of sidewalk merchandising permits, as such permits are allowed by and consistent with the requirements of this Section.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA BARBARA AMENDING
SECTION 9.50.010 OF THE SANTA BARBARA
MUNICIPAL CODE TO PROHIBIT ACTIVE
PANHANDLING IN SPECIFIED LOCATIONS

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS
FOLLOWS:

SECTION 1. Section 9.50.010 of Chapter 9.50 of Title 9 of the Santa Barbara Municipal Code is amended to read as follows:

9.50.010 Purpose.

In order to protect and promote the rights of the general public to be free from inappropriate conduct and from the ~~potential~~ intimidating physical confrontations ~~sometimes~~ associated with panhandling, the City Council finds that there is a need to adopt a City ordinance which imposes reasonable and specific time, place, and manner limitations on those forms of inappropriate and unlawful conduct which may be associated with ~~aggressive~~ abusive and active panhandling. At the same time, the Council seeks to properly and duly recognize, as well as ~~fully~~ protect to the ~~full~~ fullest extent possible, the First Amendment free speech rights of all concerned.

The Council ~~also~~ finds that balancing the need for public safety with the need to ~~duly~~ protect constitutional rights is especially critical in certain popular retail and visitor-serving areas of the City, ~~such as~~ Specifically, Cabrillo Boulevard, lower Milpas Street, and certain blocks of State Street (those within the City Central Business District) ~~since these areas~~ are popular public gathering spaces and are often crowded with members of the public and visitors to the Santa Barbara area, ~~and since~~ Moreover, these areas provide only limited public amenities, such as

public seating and outdoor dining areas, and members of the public should be free to use those areas without fear of coercive panhandling with its attendant risk of fraud, intimidation and violence. The Council further finds that, because these areas of Santa Barbara often have thousands of visitors each day and because there is limited public seating and gathering areas available within these blocks of these streets, it is necessary and appropriate to provide panhandling regulations which prevent some persons from monopolizing the use of a public bench or a public seating area, as well as nearby sidewalk areas, for active panhandling. There is therefore a necessity for the City Council to adopt ~~City~~ regulations which provide for the shared and reasonable use of these public facilities by all members of the public, especially the elderly and persons with special access needs.

The City Council further finds that panhandling near automated bank teller machines is particularly problematic because persons who use such machines may have large quantities of cash in their possession and generally feel vulnerable to attack or intimidation. Likewise, active panhandling on busses and other forms of public transportation threatens the person being solicited because they are in a confined space with no means of leaving the area in order to avoid being panhandled.

Finally, ~~the~~ The City Council ~~believes~~ finds that these ~~City~~ panhandling regulations will not prevent those persons who wish to ~~properly~~ solicit alms or charitable donations from appropriately using public benches and public seating facilities within these areas of the City for temporary respite purposes, nor will these panhandling regulations impact the content of any protected forms of expressive statements made by a panhandler or otherwise improperly restrict anyone's First Amendment rights.

The City Council also finds that these panhandling regulations have been demonstrated, by careful mapping of the regulated areas which has been considered by Council, to leave open ample alternative locations within the City for active and passive panhandling. Active panhandling on or near public benches and seating areas is prohibited only in the most crowded and intensely used areas of the City's commercial districts, and even with those areas many areas are open for active and passive panhandling.

SECTION 2. Section 9.50.030 of Chapter 9.50 of Title 9 of the Santa Barbara Municipal Code is amended to read as follows:

9.50.030 Abusive Panhandling Prohibited; Specific Locations Where Active Panhandling is Restricted.

A. Abusive Panhandling Prohibited. Abusive Panhandling is unlawful and prohibited entirely within the city of Santa Barbara.

B. Active Panhandling Restricted. Active Panhandling is prohibited when the person being panhandled is in any of the following locations:

1. Waiting at a bus stop;
2. In a vehicle on a public street or alleyway;
3. In a City parking lot or parking structure without regard to whether the person is in a vehicle or not;
4. Within twenty-five feet of an outdoor dining area of a restaurant or other dining establishment serving food for immediate consumption;
5. Within ~~twenty-five~~ fifty feet of an automated bank teller machine; ~~or~~

6. Within twenty-five feet of ~~In~~ a queue of persons waiting to gain admission to a place of business or to a vehicle, or waiting to purchase an item or admission ticket; or

7. On buses or other public transportation vehicles.

9.50.040 Use of Public Benches and Facilities on Certain Streets for Active Panhandling.

Active Panhandling is prohibited while seated on or otherwise using a public bench or seating area (including any landscape planter or other public street furniture which can be sat upon), and within twenty-five feet of such benches and seating areas, within the following areas of the City:

1. **State Street.** On either side of State Street from the 400 block to the 1200 block;
or
2. **Milpas Street.** Either side of Milpas Street from the 00 block South to the 200 block North; or
3. **Cabrillo Boulevard.** Cabrillo Boulevard between Castillo Street and Milpas Street.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA BARBARA AMENDING
SECTION 9.97.010 OF THE SANTA BARBARA
MUNICIPAL CODE REGARDING SITTING OR
LYING ON SIDEWALKS AND PASEOS ALONG
CERTAIN DOWNTOWN PORTIONS OF STATE
STREET

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS
FOLLOWS:

SECTION 1. FINDINGS AND PURPOSES. Since enactment of the City's original "sit/lie" legislation, the relevant area along State Street has become an even bigger destination for night time entertainment. During late night hours when bar and entertainment venues are very busy, there have been increasing conflicts between such patrons and persons blocking the sidewalks and public paseos. Due to this increasing conflict, the City Council finds it necessary to prohibit sitting or lying down on the few affected blocks of State Street until 2:00 a.m.

SECTION 2. Section 9.97.010 of Chapter 9.97 of Title 9 of the Santa Barbara Municipal Code is amended to read as follows:

9.97.010 Sitting or Lying on Public Sidewalks in Certain Downtown Areas of State Street.

A. Prohibition. No person shall sit or lie down upon a public sidewalk or public paseo, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk or public paseo, during the hours between 7:00 a.m. and ~~9:00 p.m.~~ 2:00 a.m. of the following day along the first thirteen (13) blocks of State Street from Cabrillo Boulevard to and including the 1300 block of State Street.

For the purposes of this subsection (A), the terms "public sidewalk or public paseo" shall also include those public pedestrian sidewalks or public paseos which serve as access to and from State Street and the City parking facilities adjacent to State Street within the designated blocks, which shall also specifically include the area known as "Storke Placita," as well as the railings, statues, sculptures, or planter areas within the designated blocks.

B. Exceptions. The prohibitions of Subsection A shall not apply to any person or persons:

1. Who is sitting or lying down on a public sidewalk due to a medical emergency;
2. Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk;
3. Who is operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit issued pursuant to Chapter 9.95 of this Title or who is participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on public sidewalk pursuant to a street use or other applicable parade permit issued by the City in accordance with this Code.

Nothing in any of these exceptions shall be construed to permit any conduct which is otherwise prohibited by this Code.

C. Scope. Nothing herein shall be deemed to apply the requirements of subsection (A) to the following:

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ATTACHMENT 4

1. A person who is sitting on a chair,~~wall~~, or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner for such purposes or;

2. A person who is sitting on a public sidewalk within a bus stop zone while waiting for public transportation.

D. Prior Warning. No person shall be prosecuted for a violation of this Chapter unless the person engages in conduct prohibited by this Chapter after having been notified by a law enforcement officer that the conduct violates this Chapter.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA BARBARA AMENDING
SECTION 9.98.010 OF THE SANTA BARBARA
MUNICIPAL CODE REGARDING
PEDESTRIANS BLOCKING PUBLIC
SIDEWALKS

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS
FOLLOWS:

SECTION 1. Section 9.98.010 of Chapter 9.98 of Title 9 of the Santa Barbara Municipal
Code is amended to read as follows:

9.98.010 Unlawful Street or Sidewalk Obstruction.

No person shall stand, or sit, or congregate in or upon any street, sidewalk or crosswalk
in the City ~~in any manner so as~~ with the intent to hinder or obstruct the free passage of
pedestrians thereon, or to annoy or molest such pedestrians, or to block the entrance to a
building, and refuse to disperse after having been ordered to do so by the police when the police
reasonably believe an immediate threat to public safety is present.

~~9.98.020 Parade Viewing Excepted.~~

~~This chapter shall not apply to persons engaged in viewing a parade duly and regularly permitted
by the City.~~

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA BARBARA AMENDING
SECTION 2.28.030 OF THE SANTA BARBARA
MUNICIPAL CODE TO GRANT THE LIBRARY
DIRECTOR THE AUTHORITY TO
PROMULGATE AND POST FACILITY
SPECIFIC REGULATIONS

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS
FOLLOWS:

SECTION 1. Section 2.28.030 of Chapter 2.28 of Title 2 of the Santa Barbara Municipal Code is amended to read as follows:

2.28.030 Duties of Director.

The Library Director shall be responsible for the supervision and control of all personnel, materials, and equipment assigned to the Department and for the performance of the functions of the Department, subject to the supervision of the City Administrator. The Library Director shall have the authority to promulgate and post facility specific regulations. No person shall violate any such regulations. Any person found to be in violation of a facility specific regulation promulgated by the Library Director shall be subject to removal from the facility upon request of the Library Director or his or her designee. Such request, when made to law enforcement after refusal to comply, shall be a basis for forcible removal, citation or arrest.



CITY OF SANTA BARBARA

ATTACHMENT 7

ORDINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: June 10, 2014

TO: Ordinance Committee

FROM: Ariel Pierre Calonne, City Attorney

SUBJECT: State Street Sidewalk Behavior And Panhandling Ordinances

RECOMMENDATION: That the Ordinance Committee:

- A. Review certain proposed changes to the State Street Sitting and Lying Down Ordinance and the Abusive Panhandling Ordinance; and
- B. Consider enacting an ordinance to prohibit public urination and defecation.

DISCUSSION:

Background

On April 22, 2014, the City Council voted unanimously (6-0, Francisco absent) to refer to the Ordinance Committee for further consideration and review issues raised in a memorandum from Councilmembers Hotchkiss and Rowse. (See April 3, 2014 Memorandum included as Attachment 1.) The memorandum raises the possibility of taking the following specific actions:

- Expanding the 7:00 a.m. to 9:00 p.m. hours of the current Sit/Lie prohibition
- Adding a prohibition on sitting, standing or lying down upon any planting, railing or statue placed or installed on a public sidewalk
- Expanding the "active" panhandling prohibition near ATM's from 25 feet to 80 feet, subject to constitutional analysis by the City Attorney
- Expanding the "active" panhandling prohibition to other areas where there are captive audiences, such as busses and other public transportation vehicles
- Prohibiting urinating or defecating in public

The relevant existing Santa Barbara Municipal Code excerpts are included as Attachment 2 to this report.

The Council memorandum also suggested directing the City Attorney to undertake research and report back to the Ordinance Committee on the legal feasibility of adding to the municipal code the following considerations:

- A prohibition on groups of people congregating in a manner that blocks the free movement of pedestrian traffic on our downtown sidewalks
- A prohibition on the use of public benches and street furniture for the storage, sale or display of merchandise or personal items
- A prohibition on active panhandling within a prescribed distance of a queue of persons waiting to gain admission to a place of business and outdoor dining areas

The Ordinance Committee should give direction on which of the above-referenced ideas it wishes to have researched further. The Ordinance Committee may also wish to add other suggestions after hearing from the public. The City Attorney will prepare draft ordinance amendments in conjunction with the research.

Legal Framework

The Council may generally enact reasonable time, place and manner restrictions upon constitutionally protected speech (such as begging for alms or panhandling), provided that the regulations are content-neutral, narrowly drawn, necessary to further a significant government interest, and allow for ample alternative channels for communication.

Content neutrality is critical. Accordingly, objections to panhandling or panhandlers may not be used to justify regulations:

“The principal inquiry in determining content neutrality, in speech cases generally and in time, place, or manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with the message it conveys.” *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989).

Again, there must be “no evidence that the city adopted the ordinance because of a disagreement with the message” *Honolulu Weekly, Inc. v. Harris*, 298 F.3d 1037, 1044 (9th Cir. 2002).

Regulations must also be narrowly drawn or “tailored.” However, the courts are clear that:

“‘Narrow tailoring’ does not require the government to adopt the ‘least restrictive or least intrusive means of serving the statutory goal’ when the regulation does not completely foreclose any means of communication. The requirement that the regulation be ‘narrowly tailored’ will be met ‘so long as the . . . regulation promotes a substantial government interest that

would be achieved less effectively absent the regulation' and the regulation is not 'substantially broader than necessary to achieve the government's interest.'" *Honolulu Weekly, Inc. v. Harris*, 298 F.3d 1037, 1045 (9th Cir. 2002), citations omitted.

It is important that the Ordinance Committee consider and describe the significant governmental interests it wishes to further so that the regulations can be appropriately tailored to meet Santa Barbara's needs. The City has a significant governmental interest, for example, in traffic congestion, public safety, avoiding visual clutter, and crowd control. As the United States Supreme Court has put it:

"Nor could one, contrary to traffic regulations, insist upon a street meeting in the middle of Times Square at the rush hour as a form of freedom of speech or assembly. Governmental authorities have the duty and responsibility to keep their streets open and available for movement." *Cox v. State of La.*, 379 U.S. 536, 554-55 (1965).

Ample alternative channels of communication must also be left open. This means that it will be necessary to do relatively precise mapping of the City's downtown core areas in order to determine whether expanded "place" regulations – like expanding the ATM panhandling prohibition from 25 to 80 feet – leave open ample alternative channels for communication.

With respect to sitting and lying down regulations, Eighth Amendment cruel and unusual punishment concerns may arise when insufficient shelter space is available and an ordinance criminalizes behavior such as sitting, lying, or sleeping at night while being involuntarily homeless. The Ordinance Committee should be cautious to take these concerns into account as it seeks legal guidance on potential ordinance expansion or other changes.

Next Steps

The Ordinance Committee direction will be used by the City Attorney to conduct detailed research into the legal feasibility of the various proposals. This will include downtown mapping prepared with the assistance of the Public Works and Community Development Departments. The City Attorney will report back to the Ordinance Committee with a comprehensive legal analysis and draft ordinance amendments.

ATTACHMENT(S): 1. April 3, 2014, memorandum from Councilmembers Hotchkiss and Rowse
2. Santa Barbara Municipal Code excerpts

PREPARED BY: Ariel Pierre Calonne, City Attorney
SUBMITTED BY: Ariel Pierre Calonne, City Attorney
APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

ORDINANCE COMMITTEE REPORT

ATTACHMENT 8

AGENDA DATE: October 21, 2014

TO: Ordinance Committee

FROM: Ariel Pierre Calonne, City Attorney

SUBJECT: Follow Up On Sidewalk Behavior And Panhandling Ordinances

RECOMMENDATION:

That the Ordinance Committee:

- A. Review draft ordinance amendments to the State Street Sitting and Lying Down Ordinance and the Abusive Panhandling Ordinance and forward recommendations to City Council; and
- B. Review proposed ordinances to prohibit public urination and defecation and to authorize the Library Director to promulgate facility specific regulations and forward recommendations to City Council.

DISCUSSION:

Background

On April 22, 2014, the City Council voted unanimously (6-0, Francisco absent) to refer to the Ordinance Committee several issues raised in a memorandum from Councilmembers Hotchkiss and Rowse. The memorandum raised the possibility of taking the following specific actions:

- Expanding the 7:00 a.m. to 9:00 p.m. hours of the current Sit/Lie prohibition;
- Adding a prohibition on sitting, standing or lying down upon any planting, railing or statue placed or installed on a public sidewalk;
- Expanding the "active" panhandling prohibition near ATM's from 25 feet to 80 feet, subject to constitutional analysis by the City Attorney;
- Expanding the "active" panhandling prohibition to other areas where there are captive audiences, such as buses and other public transportation vehicles; and
- Prohibiting urinating or defecating in public.

The Council memorandum also suggested directing the City Attorney to undertake research and report back to the Ordinance Committee on the legal feasibility of adding to the municipal code the following considerations:

- A prohibition on groups of people congregating in a manner that blocks the free movement of pedestrian traffic on our downtown sidewalks;
- A prohibition on the use of public benches and street furniture for the storage, sale or display of merchandise or personal items; and
- A prohibition on active panhandling within a prescribed distance of a queue of persons waiting to gain admission to a place of business and outdoor dining areas.

Thereafter, the Ordinance Committee met on June 10, 2014, and considered the Council's direction. The Ordinance Committee requested this office to prepare certain code amendments for review, and to complete a mapping project which would identify whether the proposed regulations would leave open sufficient public areas to pass constitutional muster, i.e., ample alternative channels of communication must be left open for panhandling and solicitation in general.

The Proposed Code Amendments

The Ordinance Committee requested further review of six municipal code amendments to address new and ongoing nuisance behaviors:

- A prohibition against urinating or defecating in public (Exhibit 1 attached);
- A prohibition on using public street furniture for the display of goods for sale or donation (Exhibit 2 attached);
- Adding expanded safety zones around sensitive locations where captive audiences feel threatened by active panhandling. These areas include:
 - Within 25 feet of an outdoor dining area
 - Within 80 feet of ATMs
 - Within 25 feet of admission lines, such as movie queues
 - Within 25 feet of public benches or seating areas
 - On buses or other public transportation (Exhibit 3 attached);
- Extending the existing "sit/lie" prohibition on State Street from 7:00 a.m. to 2:00 a.m. of the following day, rather than 9:00 p.m. (Exhibit 4 attached);
- Revising the prohibition on pedestrians blocking sidewalks to include congregated groups of people (Exhibit 5 attached); and
- Delegating the Library Director the authority to promulgate regulations for the use of the libraries, including the Central Library and its outdoor plaza (Exhibit 5A attached).

Each of these proposed amendments has distinct legal issues that should be considered.

Legal Issues

Prohibition against Urinating or Defecating in Public

This proposed code amendment is a straightforward exercise of the City's police power to protect the public health, safety, and welfare. There are ample public toileting facilities in Santa Barbara.

Prohibition on Using Public Street Furniture for the Display of Wares for Sale or Donation

Restricting the sale of goods in public can have First Amendment implications when goods bearing expressive messages, such as printed T-shirts or literature, are being sold. In *One World One Family Now v. City and County of Honolulu* (9th Cir. 1996) 76 F.3d 1009, Honolulu was faced with objections from visitors and local residents, as well as merchants, who complained that street T-shirt sales on one of the busiest commercial streets in Waikiki created a sidewalk obstruction and visual eyesore, and competed unfairly with "brick and mortar" stores. The city began enforcing a local ordinance that banned the sale of all "goods, wares, merchandise, foodstuffs, refreshments or other kinds of property or services ... upon the public streets, alleys, sidewalks, malls, parks, beaches and other public places in Waikiki." (*Id.* at p.1011.) After being threatened with prosecution, the plaintiffs (who sold printed T-shirts with messages like "TAKE IT EASY MEDITATE HANG LOOSE HAWAII" and "WAIKIKI HAWAII HARINAM") sued under the federal civil rights law.

The Ninth Circuit Court of Appeals began its analysis by acknowledging that "when the sale of merchandise bearing political, religious, philosophical or ideological messages is 'inextricably intertwined' with other forms of protected expression (like distributing literature and proselytizing), the First Amendment applies." (*Id.* at p.1012.) The Court found that the T-shirts in question met that standard; thus the sales activities were entitled to First Amendment protection.

The Court went on to apply the familiar "time, place and manner" rules:

"We use the standard governing time, place and manner restrictions. Such restrictions are valid if they (1) are content-neutral; (2) are narrowly tailored to serve a significant governmental interest; and (3) leave open ample alternative channels of communication." (*Ibid.*)

As to content neutrality, the Court held that:

“A speech restriction is content-neutral if it is “justified without reference to the content of the regulated speech.” “A regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others.” ***The test is whether the government has adopted the restriction “because of disagreement with the message it conveys.”*** (*Ibid*; citations omitted, emphasis added.)

The Ordinance Committee’s proposal to ban the sale of all goods from public street furniture does not reflect disagreement with any particular speech message because it is generally applicable to all goods.

The Court also recognized three significant governmental interests that the sales ban legitimately promoted, each of which applies to a tourism-focused city like Santa Barbara as well as it did to Honolulu’s Waikiki: “(1) ‘maintaining the aesthetic attractiveness of Waikiki,’ (2) ‘promoting public safety and the orderly movement of pedestrians,’ and (3) ‘protecting the local merchant economy.’” (*Ibid.*)

Finally, the Court concluded that:

“Honolulu’s peddling ordinance also leaves open ample alternative channels of communication. The ordinance forecloses one narrow form of expression—sidewalk sales of message-bearing merchandise—and leaves the plaintiffs free to disseminate and seek financial support for their views through “myriad and diverse” alternative channels, such as handing out literature, proselytizing or soliciting donations. In addition, plaintiffs’ volunteers may hand out free T-shirts to passers-by, or mingle with Waikiki’s tourist throngs wearing T-shirts (thereby acting as human billboards). Plaintiffs may also sell T-shirts through local retail outlets or by opening their own stores, so long as they comply with the regulations generally applicable to merchants.” (*Id.* at p.1014.)

Based upon the *One World One Family Now* case, we believe Santa Barbara may legitimately include public street furniture among the locations where street vending is prohibited.

Expanded Safety Zones around Sensitive Locations Where Captive Audiences Feel Threatened By Active Panhandling

On June 10, 2014, the Ordinance Committee expressed serious concerns about safety around ATMs, movie queues, public benches, and outdoor dining areas because these are locations where persons who are being solicited are confined to restricted areas as captive audiences. In those situations, the persons being solicited are most likely to experience a sense of powerlessness, and to be intimidated by an unwanted effort by a panhandler to solicit donations. The Committee requested further analysis of adding or expanding safety buffer zones (within which panhandling would be prohibited) around these sensitive locations.

There is little doubt that valid time, place and manner regulations may prohibit abusive panhandling altogether, while prohibiting and allowing active or passive panhandling in specified locations only. The question for the Ordinance Committee and Council is whether the areas where active and passive panhandling would be prohibited – the expansion of the 25-foot buffer around ATMs to 80 feet, and the addition of a 25-foot buffer around movie queues, public benches, and outdoor dining areas – would leave open ample alternative channels for communication. This analysis is fundamentally data-driven.

We have approached the issues empirically by mapping the downtown core business areas and the areas affected by the proposed expanded safety zones. Over the summer, the City's GIS staff mapped the locations of ATMs, movie queues, public benches, outdoor dining areas and paseos on the State Street and Milpas Street corridors as they are currently regulated by the City. These facilities and locations were chosen because the Ordinance Committee identified them as locations where an additional safety buffer might be needed to address the recent increase in problematic panhandling. An overview map of State Street is attached as Exhibit "6" and more detailed maps of each block of State Street (400 to 1200) are provided as Exhibits "7" through "15."

The maps show that the proposed safety buffers have the effect of prohibiting panhandling in many areas of State Street. The Ordinance Committee should carefully consider these maps and determine whether ample alternative areas are provided for protected speech activities including panhandling.

Extending the Existing "Sit/Lie" Prohibition on State Street from 7:00 A.M. to 2:00 A.M. of the Following Day, Rather than 9:00 P.M.

The major legal issues presented are whether extending the hours of the existing sit/lie prohibition from 9:00 p.m. to 2:00 a.m. on State Street implicates either First Amendment or Eighth Amendment (cruel and unusual punishment) concerns.

The First Amendment concerns are familiar, and for the purposes of this analysis we assume without conceding that expressive conduct may be implicated by the act of sitting or lying down upon a sidewalk. Using the time, place and manner regulatory test, the proposed extension to 2:00 a.m. is clearly content-neutral. The significant governmental interests include the need for free pedestrian passage on crowded State Street, in this case focusing upon the late evening hour when the vibrant State Street nightlife scene causes conflict between revelers walking or milling about and those who might seek to sit or lie down upon the sidewalks. Because the regulations cover only the busiest portion of the busiest street in Santa Barbara, we believe ample alternative locations are available to sit or lie down on the public sidewalk. (See *Roulette v. City of Seattle* (9th Cir. 1996) 97 F.3d 300.)

The Eighth Amendment cruel and unusual punishment concerns are less familiar, and arise out of the potential disparate impact sit/lie regulations may have upon the homeless population. These concerns were noted in a now-vacated Ninth Circuit case called *Jones v. City of Los Angeles* (9th Cir. 2006) 444 F.3d 1118 (the opinion was withdrawn after the City settled the lawsuit). In *Jones*, homeless individuals brought a federal civil rights action seeking limited injunctive relief against enforcement of a Los Angeles ordinance that criminalized sitting, lying, or sleeping on public streets and sidewalks **at all times and in all places** within City. The plaintiffs argued, successfully, that the ordinance constituted cruel and unusual punishment because penalized homeless persons were on the streets due to the lack of available shelter space – effectively criminalizing their status as homeless rather than any distinct criminal conduct.

The Court began its analysis by declaring Los Angeles' ordinance "one of the most restrictive municipal laws regulating public spaces in the United States," noting that unlike Santa Barbara's ordinance, the L.A. regulation applied citywide and at all hours of the day or night. The Court went on to explain that:

"The City could not expressly criminalize the status of homelessness by making it a crime to be homeless without violating the Eighth Amendment, **nor can it criminalize acts that are an integral aspect of that status**. Because there is substantial and undisputed evidence that the number of homeless persons in Los Angeles far exceeds the number of available shelter beds at all times, including on the nights of their arrest or citation, Los Angeles has encroached upon Appellants' Eighth Amendment protections by criminalizing the unavoidable act of sitting, lying, or sleeping at night while being involuntarily homeless. A closer analysis of *Robinson* and *Powell* instructs that **the involuntariness of the act or condition the City criminalizes is the critical factor** delineating a constitutionally cognizable status, and incidental conduct which is integral to and an unavoidable result of that

status, from acts or conditions that can be criminalized consistent with the Eighth Amendment.” (*Jones v. City of Los Angeles* (9th Cir. 2006) 444 F.3d 1118, 1132 *vacated*, (9th Cir. 2007) 505 F.3d 1006; emphasis added.)

Importantly, the Court concluded by stating that:

“By our decision, we in no way dictate to the City that it must provide sufficient shelter for the homeless, or allow anyone who wishes to sit, lie, or sleep on the streets of Los Angeles at any time and at any place within the City. All we hold is that, so long as there is a greater number of homeless individuals in Los Angeles than the number of available beds, ***the City may not enforce section 41.18(d) at all times and places throughout the City*** against homeless individuals for involuntarily sitting, lying, and sleeping in public.” (*Jones v. City of Los Angeles* (9th Cir. 2006) 444 F.3d 1118, 1138 *vacated*, (9th Cir. 2007) 505 F.3d 1006; emphasis added.)

Jones is clearly distinguishable from Santa Barbara’s ordinance in that the City’s ordinance applies only to a limited portion of one street during limited hours. Nonetheless, if the Court is persuaded that Santa Barbara’s ordinance is aimed at homelessness, rather than late night street obstruction of State Street revelers and daytime obstruction of tourists and residents in the City’s core commercial area, the City may face a legal challenge under the theory that extending the sit/lie ban until 2:00 a.m. inappropriately burdens those who have nowhere else to sleep. It is important to note that *Jones* is not the law, but only a potential insight into the Ninth Circuit’s current thinking.

Revising the Prohibition on Pedestrians Blocking Sidewalks to Include Congregated Groups of People

Laws prohibiting congregations of people in public forums, such as sidewalks, squarely implicate First Amendment speech and assembly rights. The initial question presented is whether the City’s existing circa-1966 regulation meets current constitutional scrutiny.

Santa Barbara Municipal Code section 9.98.010 provides as follows:

9.98.010 Unlawful.

No person shall stand or sit in or upon any street, sidewalk or crosswalk in the City in any manner so as to hinder or obstruct the free passage of pedestrians thereon, or to annoy or molest such pedestrians. (Ord. 3162 §1, 1966.)

While simple enough on its face, this ordinance raises serious First Amendment considerations, particularly if it is revised to address congregations of people on sidewalks at any time or place, because it would then broadly prohibit even speech-related activities, such as peaceful protests or picketing, which might “annoy” pedestrians or “hinder” their free passage.

The United States Supreme Court has long held that:

“Access to the ‘streets, sidewalks, parks, and other similar public places . . . for the purpose of exercising (First Amendment rights) cannot constitutionally be denied broadly . . .’ Free expression ‘must not, in the guise of regulation, be abridged or denied.’” (*Grayned v. City of Rockford* (1972) 408 U.S. 104, 117.)

On the other hand, focused restrictions on the time, place and manner of street (or sidewalk) protests can be upheld:

“The control of travel on the streets is a clear example of governmental responsibility to insure this necessary order. A restriction in that relation, designed to promote the public convenience in the interest of all, and not susceptible to abuses of discriminatory application, cannot be disregarded by the attempted exercise of some civil right which, in other circumstances, would be entitled to protection. One would not be justified in ignoring the familiar red light because this was thought to be a means of social protest. Nor could one, contrary to traffic regulations, insist upon a street meeting in the middle of Times Square at the rush hour as a form of freedom of speech or assembly. **Governmental authorities have the duty and responsibility to keep their streets open and available for movement.** A group of demonstrators could not insist upon the right to cordon off a street, or entrance to a public or private building, and allow no one to pass who did not agree to listen to their exhortations.” (*Cox v. State of La.* (1965) 379 U.S. 536, 554-55; emphasis added.)

Santa Barbara’s existing Chapter 9.98 may be too broad to meet constitutional requirements because, on its face, it would prohibit a large array of constitutionally protected speech activities, such as peaceful protest and picketing.

This conclusion raises the next question, namely, can SBMC Chapter 9.98 be amended to narrow its reach to fit within constitutional dimensions. We would advise amending the existing ordinance to read as follows:

9.98.010 Unlawful Street or Sidewalk Obstruction.

No person shall stand, or sit, or congregate in or upon any street, sidewalk or crosswalk in the City ~~in any manner so as~~ with the intent to hinder or obstruct the free passage of pedestrians thereon, or to annoy or molest such pedestrians, or to block the entrance to a building, and refuse to disperse after having been ordered to do so by the police when the police reasonably believe an immediate threat to public safety is present.

~~9.98.020 Parade Viewing Excepted.~~

~~This chapter shall not apply to persons engaged in viewing a parade duly and regularly permitted by the City.~~

The proposed amendment adds an intent requirement and a requirement that the police order dispersal only in those situations where the sidewalk or street obstruction threatens public safety. This will allow the police to stop violent protests, which are not protected by the First Amendment, while still avoiding interference with constitutionally-protected speech activities on the streets and sidewalks. We also advise repealing SBMC section 9.98.020, which creates an exemption for persons viewing a parade. This exemption is unnecessary given the proposed public safety limitation on the ordinance, and may appear to be a difficult-to-defend content-based restriction.

With these amendments, we believe Chapter 9.98 may minimize First Amendment concerns while providing a useful tool to deal with persons who intentionally obstruct the sidewalks or streets, and who refuse to disperse when ordered to do so by the police in order to mitigate immediate threats to public safety.

Delegating the Library Director the Authority to Promulgate Regulations for the Use of the Libraries, Including the Central Library and its Outdoor Plaza

The City Council has the police power to regulate the use of public facilities including the libraries. This power may be delegated to the Library Director. The proposed ordinance (Exhibit 5A) grants the Library Director the authority to promulgate criminally enforceable regulations that would govern behavior at the City's library facilities.

CONCLUSION

We believe the accompanying ordinance revisions are responsive to the Ordinance Committee's requests. In closing, it is important to remember that the Council may generally enact reasonable time, place and manner restrictions upon constitutionally protected speech, provided that the regulations are content-

neutral, narrowly drawn, necessary to further a significant government interest, and allow for ample alternative channels for communication.

Content neutrality is critical:

“The principal inquiry in determining content neutrality, in speech cases generally and in time, place, or manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with the message it conveys.” (*Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989).)

And, there must be “no evidence that the city adopted the ordinance because of a disagreement with the message” (*Honolulu Weekly, Inc. v. Harris*, 298 F.3d 1037, 1044 (9th Cir. 2002).)

- ATTACHMENT(S):**
1. Prohibition on Urinating or Defecating in Public
 2. Prohibition on Use of Street Furniture For Display
Of Goods For Sale Or Donation
 3. Expanded Active Panhandling Safety Zones
 4. Extended Sit/Lie Prohibition
 5. Sidewalk Obstruction Due To Congregated Groups Of
People
 6. State Street 400-1200 Blocks
 7. State Street 400 Block
 8. State Street 500 Block
 9. State Street 600 Block
 10. State Street 700 Block
 11. State Street 800 Block
 12. State Street 900 Block
 13. State Street 1000 Block
 14. State Street 1100 Block
 15. State Street 1200 Block

PREPARED BY: Ariel Pierre Calonne, City Attorney

SUBMITTED BY: Ariel Pierre Calonne, City Attorney

APPROVED BY: City Administrator's Office

EXHIBIT 1 PROHIBITION ON URINATING OR DEFECATING IN PUBLIC

Chapter 9.07 Urinating or Defecating in Public.

Section 9.07.010 Urinating or Defecating in Public Prohibited.

No person shall defecate or urinate in public or upon any street, sidewalk, or other public place.

EXHIBIT 2 PROHIBITION ON USE OF STREET FURNITURE FOR DISPLAY
OF GOODS FOR SALE OR DONATION

UNCODIFIED FINDINGS:

The City Council finds that these regulations are necessary to maintain the aesthetic attractiveness of Santa Barbara which depends heavily on its tourism-based economy for its financial vitality. These regulations are also necessary in order to promote public safety and the orderly movement of pedestrians, particularly in the crowded downtown core, where on-street or on-sidewalk vending will present a substantial obstruction to pedestrian and vehicular traffic. Finally, these regulations are essential to protect the local merchant economy which would be undersold and threatened economically by competition from street vendors who do not pay rent or other overhead expenses.

9.48.010 Commercial Use of City Streets.

A. GENERALLY. It shall be unlawful for any person, whether acting as principal, agent, clerk, employee, or otherwise, to use any public street, public parking lot, public street furniture, or public sidewalk in the City for the purpose of selling, vending, offering for donations, offering for sale or soliciting or receiving orders for the sale of any goods, wares or merchandise.

B. SALE OF NEWSPAPERS. Notwithstanding subsection A hereof, nothing herein shall prohibit any person from selling or offering for sale newspapers, magazines and periodicals upon any of the public sidewalks of the City in the present customary and usual manner of selling and offering for sale of newspapers, magazines, and periodicals in the City.

EXHIBIT 2 PROHIBITION ON USE OF STREET FURNITURE FOR DISPLAY
OF GOODS FOR SALE OR DONATION

EXHIBIT 2 PROHIBITION ON USE OF STREET FURNITURE FOR DISPLAY OF GOODS FOR SALE OR DONATION

C. EXEMPTION FOR SIDEWALK SALES, FARMERS' MARKETS, AND SIDEWALK CAFE TABLES. Notwithstanding subsection A hereof, an individual or an organization may, upon the issuance of a permit by the Director of Public Works in accordance with the requirements of this Chapter and the administrative regulations adopted pursuant hereto, use a public street or sidewalk in the City for the following limited purposes:

1. Sidewalk Sales. A retail business licensed to do business at a location within the City may conduct a sale of merchandise on a City sidewalk under the following conditions:
 - a. the sale occurs only on a public sidewalk immediately adjacent to the retail business; and
 - b. the retail business does not conduct such sidewalk sales for more than a total of ten (10) days for each calendar year provided, however, that those businesses within a two (2) block radius of a construction project which impacts pedestrian or vehicular access to the City block within which the business is located for a period exceeding fourteen (14) consecutive days may be allowed up to twenty (20) days for sidewalk sales during the year in which the construction project is undertaken.

2. Farmers' Markets. An individual or an organization may use a public street or City parking lot for the purpose of conducting a Certified Farmers' Market [as defined and provided for in Title 3, Chapter 3 of the California Code of Regulations] under the following conditions:

EXHIBIT 2 PROHIBITION ON USE OF STREET FURNITURE FOR DISPLAY OF GOODS FOR SALE OR DONATION

EXHIBIT 2 PROHIBITION ON USE OF STREET FURNITURE FOR DISPLAY OF GOODS FOR SALE OR DONATION

- a. the merchandise offered for sale at the Farmers'

Market is allowed to be sold at a Certified Farmers' Market; and

- b. the use of the street or public parking lot is authorized by and pursuant to a written license agreement between the City and the Market sponsor, which license agreement limits the Market to a specified day or days of the week and to certain limited hours; and,

- c. the vendors of merchandise at the Farmers' Market are authorized to conduct such sales by the organization sponsoring the Market and entering into the license agreement with the City.

3. Limited Nonprofit Sidewalk Sales. In connection and concurrent with a Parade or Event (as permitted and defined in Municipal Code Section 9.12.020), which Parade or Event is sponsored by a nonprofit entity (as evidenced by tax-exempt status under state and federal tax laws), a public sidewalk may be used for the limited merchandising of items or services under the following conditions:

- a. the sidewalk sales may occur for a period not to exceed five (5) days in any calendar year, and the sales must be concurrent with the associated Parade or Event; and,

- b. the location of any booth or table used by a sidewalk vendor under this subsection shall be at a specific location approved in advance by the City; and,

EXHIBIT 2 PROHIBITION ON USE OF STREET FURNITURE FOR DISPLAY OF GOODS FOR SALE OR DONATION

EXHIBIT 2 PROHIBITION ON USE OF STREET FURNITURE FOR DISPLAY OF GOODS FOR SALE OR DONATION

c. the net proceeds received by the nonprofit corporation from such sales are to be devoted exclusively for the benefit of the sponsoring nonprofit organization(s); and,

d. the persons conducting such sales are authorized in writing to do so by the nonprofit organization sponsoring the event; and,

e. for the purposes of this subsection, the word “concurrent” shall be defined as occurring within the same calendar week (Sunday through Saturday).

4. Sidewalk Sales in Connection with a Reserved Park Event.

A public street or sidewalk immediately adjacent to a City park facility may be used for the limited merchandising of items under the following conditions:

a. the person or organization sponsoring the merchandising is a nonprofit entity, and it has reserved the adjacent park facility for an event pursuant to the requirements of Santa Barbara Municipal Code Chapter 15.05 and 15.16; and, event; and

b. the sales occur only during the time the park is being used for the reserved event; and,

c. the persons conducting such sales are authorized in writing to do so by the nonprofit sponsoring the event and;

d. the net proceeds received by the nonprofit corporation from such sales are to be devoted exclusively for the benefit of the sponsoring nonprofit organization.

EXHIBIT 2 PROHIBITION ON USE OF STREET FURNITURE FOR DISPLAY OF GOODS FOR SALE OR DONATION

EXHIBIT 2 PROHIBITION ON USE OF STREET FURNITURE FOR DISPLAY
OF GOODS FOR SALE OR DONATION

5. Sidewalk Cafe Tables Under Chapter 9.95. for the placement of sidewalk cafe tables in accordance with Santa Barbara Municipal Code Chapter 9.95.

D. SIDEWALK MERCHANDISING REGULATIONS AND PERMITS.

The City Administrator, acting by and through the Director of Public Works, is hereby directed to prepare an appropriate administrative process (along with related administrative regulations) for the City's acceptance, review, and processing of applications for the issuance of sidewalk merchandising permits, as such permits are allowed by and consistent with the requirements of this Section.

EXHIBIT 3 EXPANDED ACTIVE PANHANDLING SAFETY ZONES

9.50.010 Purpose.

In order to protect and promote the rights of the general public to be free from inappropriate conduct and from the ~~potential~~ intimidating physical confrontations sometimes associated with panhandling, the City Council finds that there is a need to adopt a City ordinance which imposes reasonable and specific time, place, and manner limitations on those forms of inappropriate and unlawful conduct which may be associated with ~~aggressive~~ abusive and active panhandling. At the same time, the Council seeks to properly and duly recognize, as well as ~~fully~~ protect to the ~~full~~ fullest extent possible, the First Amendment free speech rights of all concerned.

The Council ~~also~~ finds that balancing the need for public safety with the need to ~~duly~~ protect constitutional rights is especially critical in certain popular retail and visitor-serving areas of the City, ~~such as~~ Specifically, Cabrillo Boulevard, lower Milpas Street, and certain blocks of State Street (those within the City Central Business District) ~~since these areas~~ are popular public gathering spaces and are often crowded with members of the public and visitors to the Santa Barbara area, ~~and since~~ Moreover, these areas provide only limited public amenities, such as public seating and outdoor dining areas, and members of the public should be free to use those areas without fear of coercive panhandling with its attendant risk of fraud, intimidation and violence. The Council further finds that, because these areas of Santa Barbara often have thousands of visitors each day and because there is limited public seating and gathering areas available within these blocks of these streets, it is necessary and appropriate to provide

EXHIBIT 3 EXPANDED ACTIVE PANHANDLING SAFETY ZONES

panhandling regulations which prevent some persons from monopolizing the use of a public bench or a public seating area, as well as nearby sidewalk areas, for active panhandling. There is therefore a necessity for the City Council to adopt City-regulations which provide for the shared and reasonable use of these public facilities by all members of the public, especially the elderly and persons with special access needs.

The City Council further finds that panhandling near automated bank teller machines is particularly problematic because persons who use such machines may have large quantities of cash in their possession and generally feel vulnerable to attack or intimidation. Likewise, active panhandling on busses and other forms of public transportation threatens the person being solicited because they are in a confined space with no means of leaving the area in order to avoid being panhandled.

Finally, ~~the~~ The City Council believes-finds that these City-panhandling regulations will not prevent those persons who wish to properly-solicit alms or charitable donations from appropriately using public benches and public seating facilities within these areas of the City for temporary respite purposes, nor will these panhandling regulations impact the content of any protected forms of expressive statements made by a panhandler or otherwise improperly restrict anyone's First Amendment rights.

The City Council also finds that these panhandling regulations have been demonstrated, by careful mapping of the regulated areas which has been considered by Council, to leave open ample alternative locations within the City

EXHIBIT 3 EXPANDED ACTIVE PANHANDLING SAFETY ZONES

for active and passive panhandling. Active panhandling on or near public benches and seating areas is prohibited only in the most crowded and intensely used areas of the City's commercial districts, and even with those areas many areas are open for active and passive panhandling.

9.50.030 Abusive Panhandling Prohibited; Specific Locations Where Active Panhandling is Restricted.

A. Abusive Panhandling Prohibited. Abusive Panhandling is unlawful and prohibited entirely within the city of Santa Barbara.

B. Active Panhandling Restricted. Active Panhandling is prohibited when the person being panhandled is in any of the following locations:

1. Waiting at a bus stop;
2. In a vehicle on a public street or alleyway;
3. In a City parking lot or parking structure without regard to whether the person is in a vehicle or not;
4. Within twenty-five feet of an outdoor dining area of a restaurant or other dining establishment serving food for immediate consumption;
5. Within ~~twenty-five~~ eighty feet of an automated bank teller machine;
- or
6. Within twenty-five feet of ~~In~~ a queue of persons waiting to gain admission to a place of business or to a vehicle, or waiting to purchase an item or admission ticket; or
7. On buses or other public transportation vehicles.

EXHIBIT 3 EXPANDED ACTIVE PANHANDLING SAFETY ZONES

9.50.040 Use of Public Benches and Facilities on Certain Streets for Active Panhandling.

Active Panhandling is prohibited while seated on or otherwise using a public bench or seating area (including any landscape planter or other public street furniture which can be sat upon), and within twenty-five feet of such benches and seating areas, within the following areas of the City:

1. State Street. On either side of State Street from the 400 block to the 1200 block; or
2. Milpas Street. Either side of Milpas Street from the 00 block South to the 200 block North; or
3. Cabrillo Boulevard. Cabrillo Boulevard between Castillo Street and Milpas Street.

EXHIBIT 4 EXTENDED SIT/LIE PROHIBITION

9.97.010 Sitting or Lying on Public Sidewalks in Certain Downtown Areas of State Street.

A. Prohibition. No person shall sit or lie down upon a public sidewalk or public paseo, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk or public paseo, during the hours between 7:00 a.m. and 9:00 p.m. 2:00 a.m. of the following day along the first thirteen (13) blocks of State Street from Cabrillo Boulevard to and including the 1300 block of State Street.

For the purposes of this subsection (A), the terms "public sidewalk or public paseo" shall also include those public pedestrian sidewalks or public paseos which serve as access to and from State Street and the City parking facilities adjacent to State Street within the designated blocks, which shall also specifically include the area known as "Storke Placita," as well as the railings, statues, sculptures, or planter areas within the designated blocks.

B. Exceptions. The prohibitions of Subsection A shall not apply to any person or persons:

1. who is sitting or lying down on a public sidewalk due to a medical emergency;
2. who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk;
3. who is operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit issued pursuant to Chapter 9.95 of this Title or who is participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted

EXHIBIT 4 EXTENDED SIT/LIE PROHIBITION

on public sidewalk pursuant to a street use or other applicable parade permit issued by the City in accordance with this Code.

Nothing in any of these exceptions shall be construed to permit any conduct which is otherwise prohibited by this Code.

C. Scope. Nothing herein shall be deemed to apply the requirements of subsection (A) to the following:

1. a person who is sitting on a chair, ~~wall~~, or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner for such purposes or;

2. a person who is sitting on a public sidewalk within a bus stop zone while waiting for public transportation.

D. Prior Warning. No person shall be prosecuted for a violation of this Chapter unless the person engages in conduct prohibited by this Chapter after having been notified by a law enforcement officer that the conduct violates this Chapter.

EXHIBIT 5 SIDEWALK OBSTRUCTION DUE TO CONGREGATED GROUPS
OF PEOPLE

9.98.010 Unlawful Street or Sidewalk Obstruction.

No person shall stand, or sit, or congregate in or upon any street, sidewalk or crosswalk in the City ~~in any manner so as~~ with the intent to hinder or obstruct the free passage of pedestrians thereon, or to annoy or molest such pedestrians, or to block the entrance to a building, and refuse to disperse after having been ordered to do so by the police when the police reasonably believe an immediate threat to public safety is present.

~~9.98.020 Parade Viewing Excepted.~~

~~This chapter shall not apply to persons engaged in viewing a parade duly and regularly permitted by the City.~~

EXHIBIT 5A LIBRARY REGULATIONS

2.28.030 Duties of Director.

The Library Director shall be responsible for the supervision and control of all personnel, materials, and equipment assigned to the Department and for the performance of the functions of the Department, subject to the supervision of the City Administrator. The Library Director shall have the authority to promulgate and post facility specific regulations. No person shall violate any such regulations. Any person found to be in violation of a facility specific regulation promulgated by the Library Director shall be subject to removal from the facility upon request of the Library Director or his or her designee. Such request, when made to law enforcement after refusal to comply, shall be a basis for forcible removal, citation or arrest.



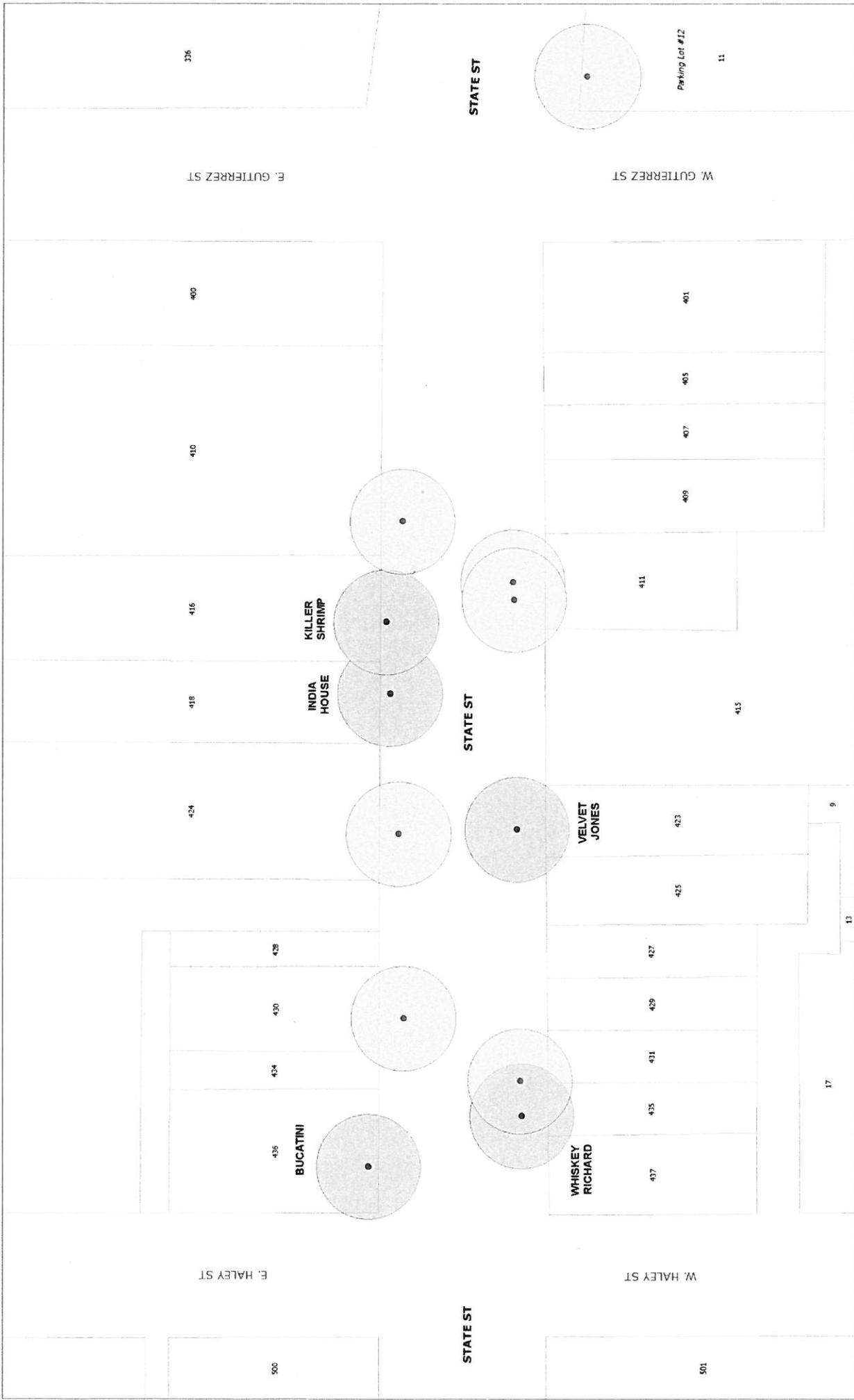
- Legend**
- Parcel Number
 - Boundary
 - Parking Lot #12
 - 25ft buffer
 - 25ft buffer
 - 25ft buffer

STATE STREET: 400 BLOCK

September 16, 2014

EXHIBIT 7

Map prepared by the City of Dallas, Texas, Planning Department, GIS Unit. The City of Dallas, Texas, Planning Department, GIS Unit is not responsible for the accuracy of the information shown on this map. The City of Dallas, Texas, Planning Department, GIS Unit is not responsible for the accuracy of the information shown on this map.





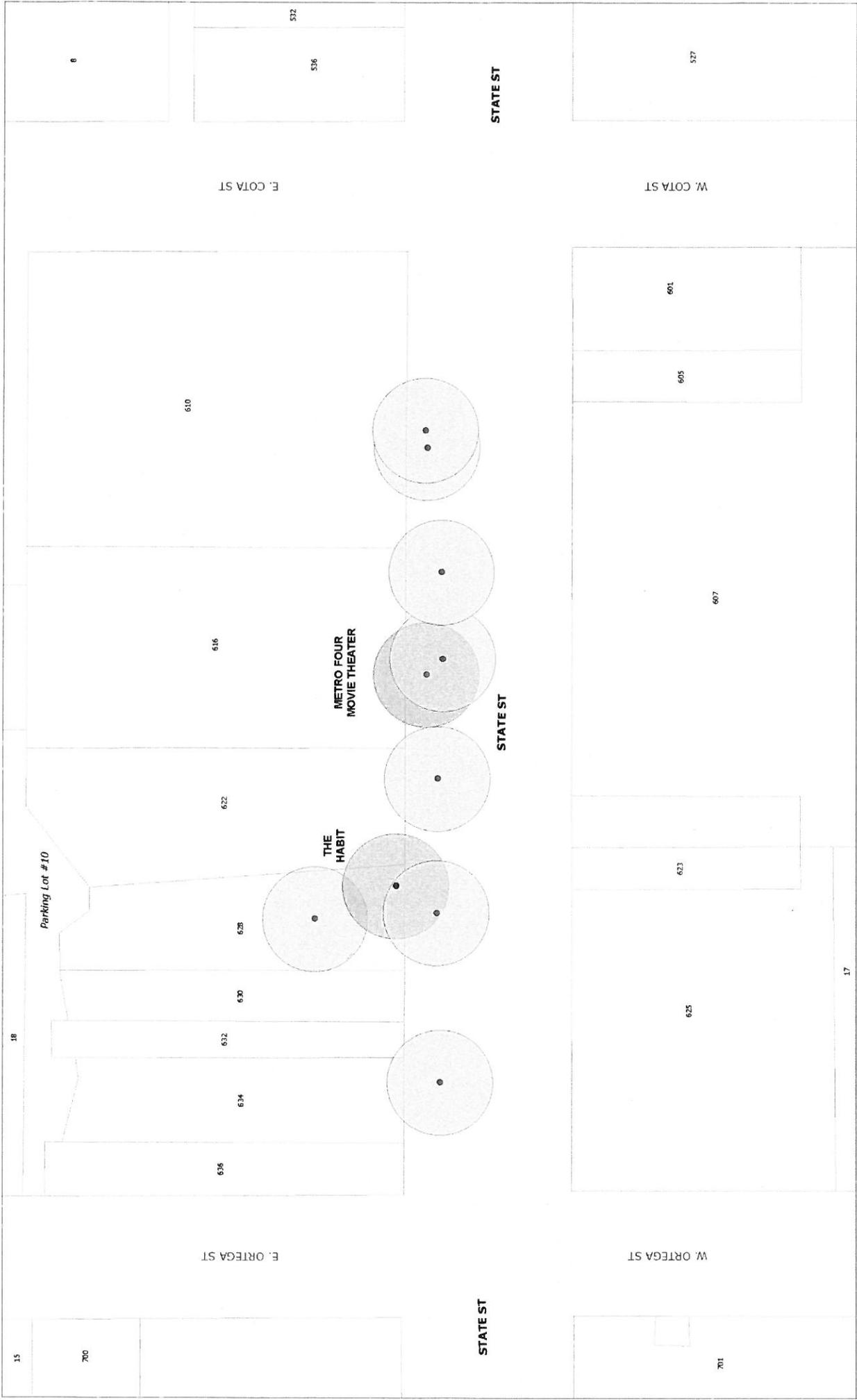
- Legend**
- Business
 - Parking Lot Access
 - 2nd floor
 - 3rd floor

STATE STREET: 500 BLOCK

September 18, 2014

EXHIBIT 8





- Legend**
- Boundary
 - Movie Theater
 - Parking Lot Area
 - Parkways
- 300 to 400
 250 to 300
 200 to 250
 150 to 200
 100 to 150

STATE STREET: 600 BLOCK

September 17, 2014

EXHIBIT 9

The City of San Antonio is a member of the National Association of Counties (NAACo) and the National Association of Public Administrators (NAPHA).





- Legend**
- Benches
 - Plantings

STATE STREET: 700 BLOCK

September 17, 2014

EXHIBIT 10





EXHIBIT 11 STATE STREET: 800 BLOCK

September 11, 2014





- Legend**
- ATM Location
 - Benches
 - Missing Tree/Sign
 - Parking Lot Access
 - Plantings

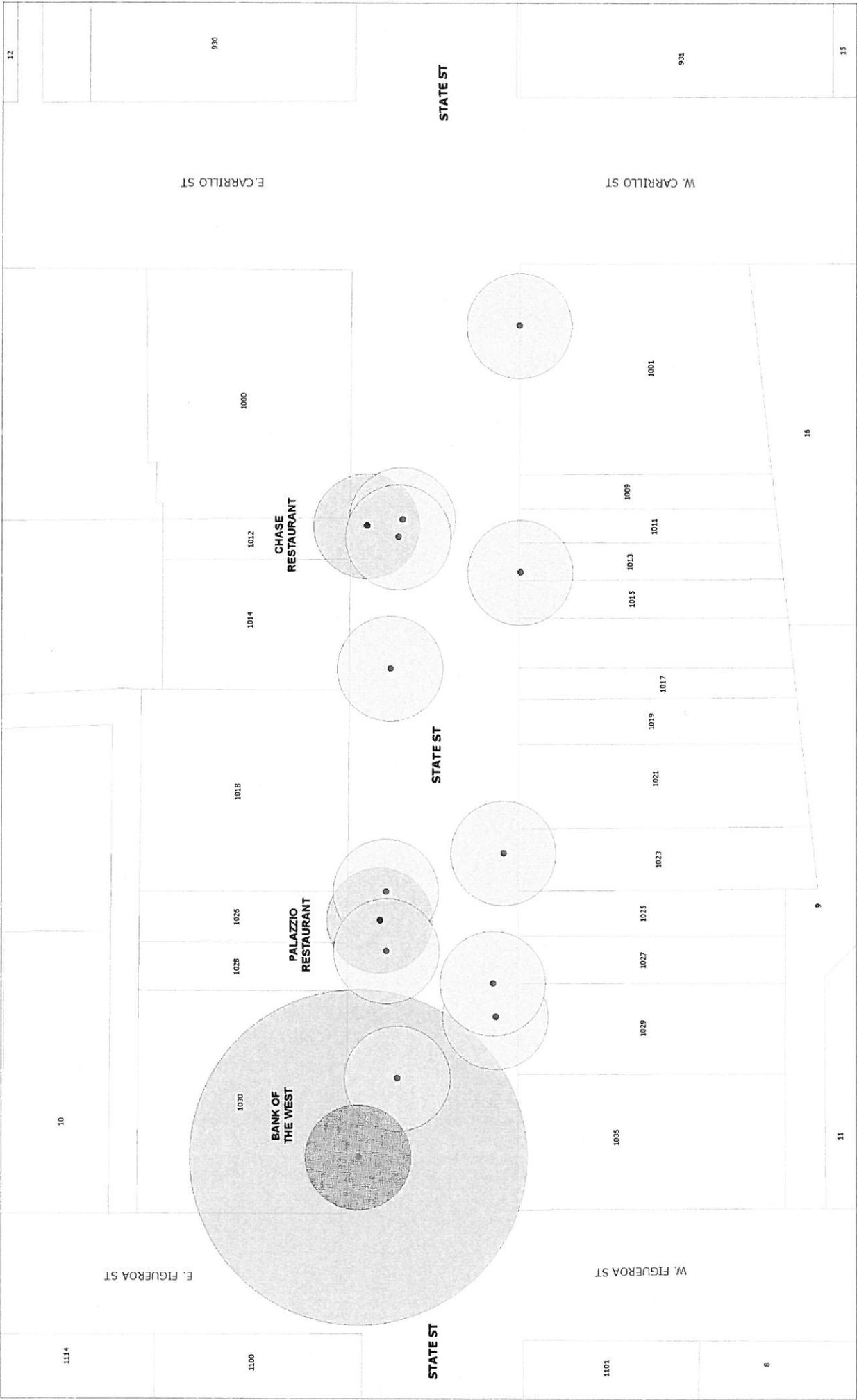
STATE STREET: 900 BLOCK

EXHIBIT 12



FOR THE OFFICE OF THE CITY CLERK
 OFFICE OF THE CITY CLERK
 1000 N. NINETH STREET
 SAN ANTONIO, TEXAS 78205
 TEL: 214.755.1000
 FAX: 214.755.1001

September 11, 2014



Legend

- ATM (Lockers)
- Benches
- Restaurants
- 250' buffer
- 500' buffer
- 750' buffer
- 1000' buffer

STATE STREET: 1000 BLOCK

September 17, 2014

EXHIBIT 13

THE CITY OF SAN FRANCISCO
 OFFICE OF THE CITY CLERK
 100 MARKET STREET, SUITE 1000
 SAN FRANCISCO, CA 94102
 TEL: 415-376-2000
 WWW.SANFRANCISCO.CA.GOV





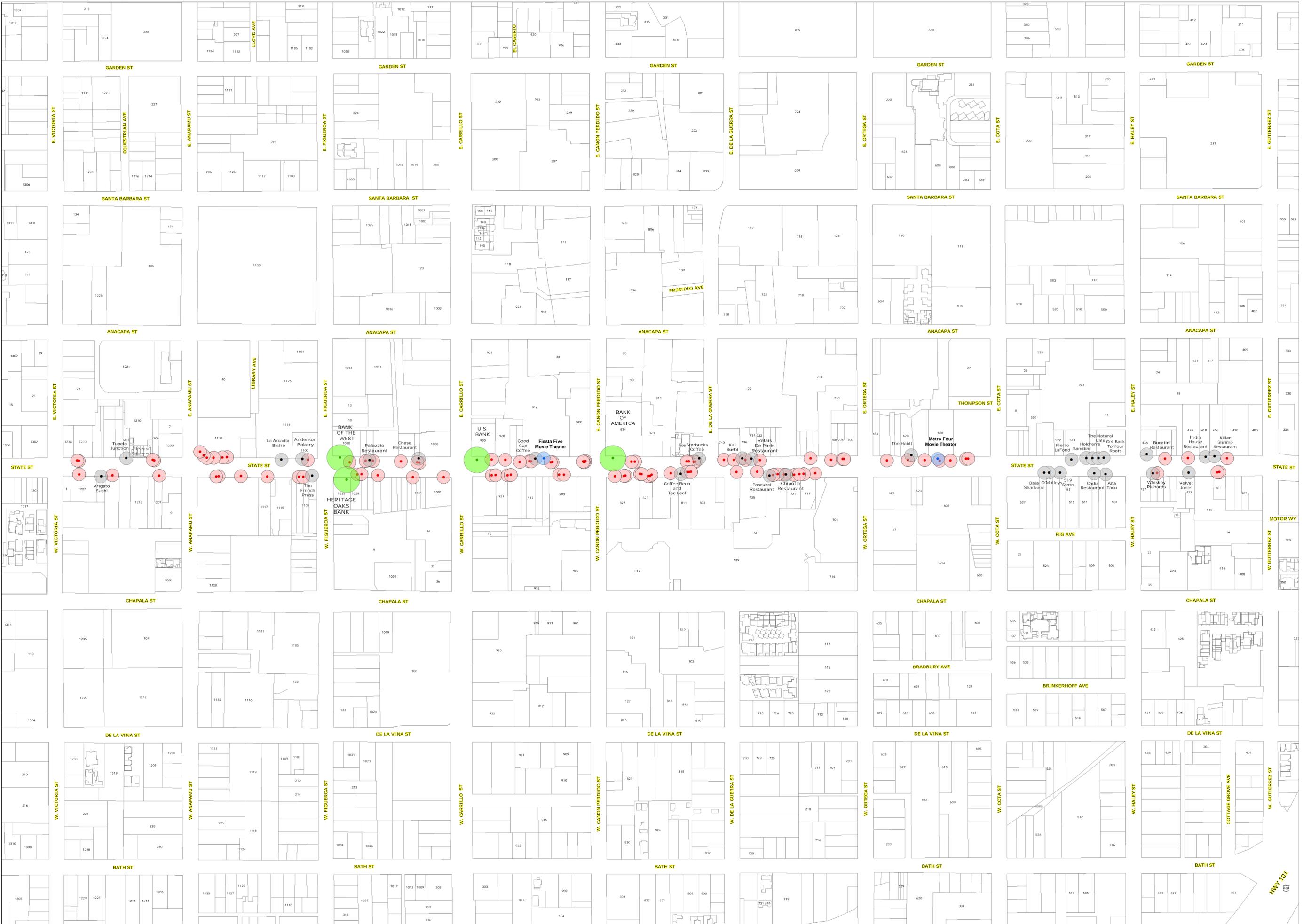
- Legend**
- Buildings
 - Restaurants
 - 200' Buffer
 - 200' Buffer

STATE STREET: 1100 BLOCK

EXHIBIT 14



September 18, 2014



ATTACHMENT 9

Features shown hereon were compiled from the records of various public and private entities and are for informational purposes only. The City of Santa Barbara does not accept any responsibility for the positional or completeness of this information.

State St Locations

March 10, 2015

- Legend**
- Movie Theater
 - ATM Locations
 - Restaurants
 - Benches
 - 25ft Buffer - Movie Theaters
 - 50ft buffer - ATM
 - 25ft buffer - Restaurants
 - 25ft buffer - Benches



HWY 101

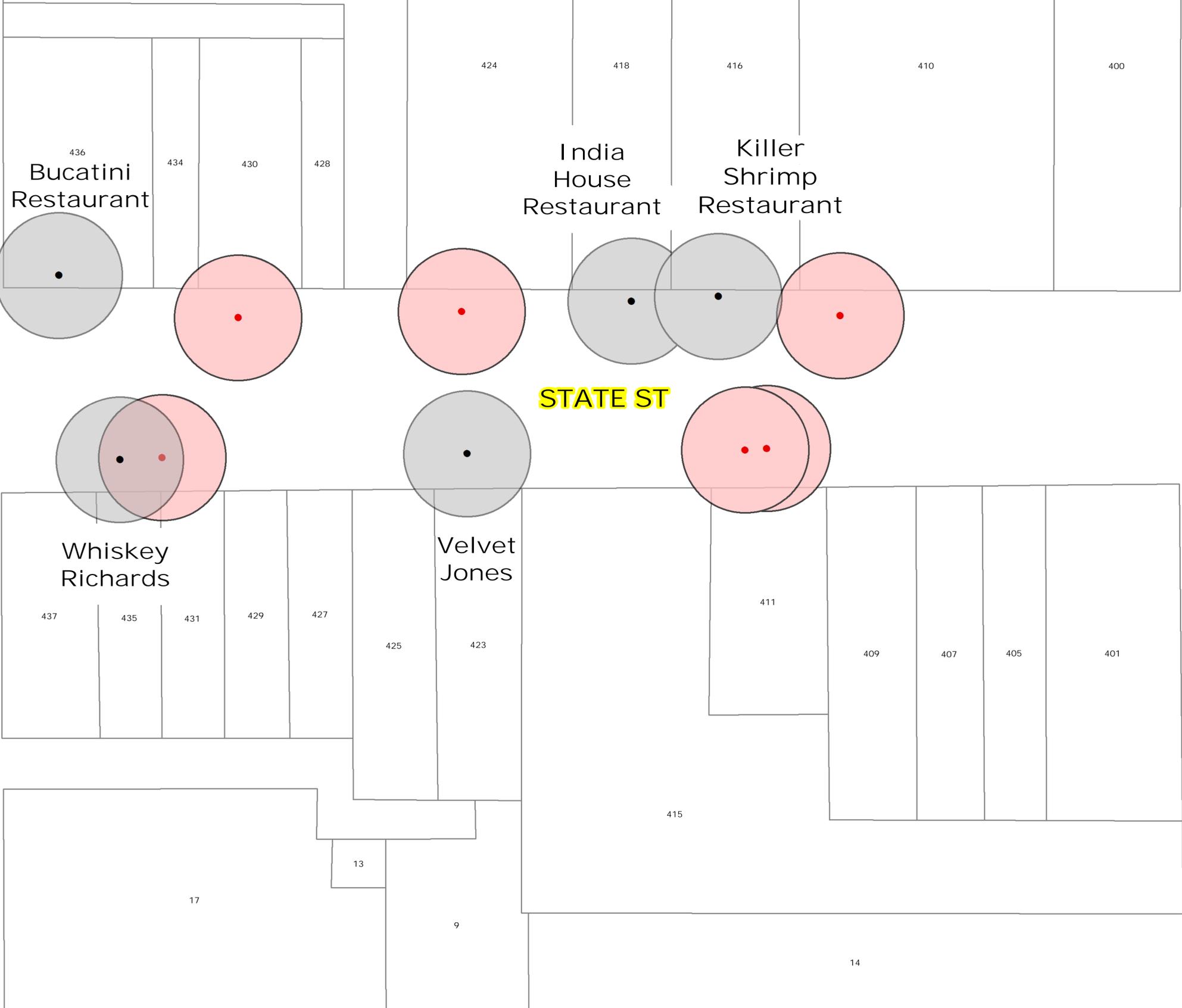
E. HALEY ST

E. GUTIERREZ ST

W. HALEY ST

W GUTIERREZ ST

MOTOR WY



State St Locations

400 Block
March 10, 2015

Legend

- Restaurants
- Benches
- 25ft buffer - Restaurants
- 25ft buffer - Benches



Features shown hereon were compiled from the records of various public and private entities and are for informational purposes only. The City of Santa Barbara does not accept any responsibility for the positional or completeness of this information.

500

501

336

11

323

436
Bucatini Restaurant

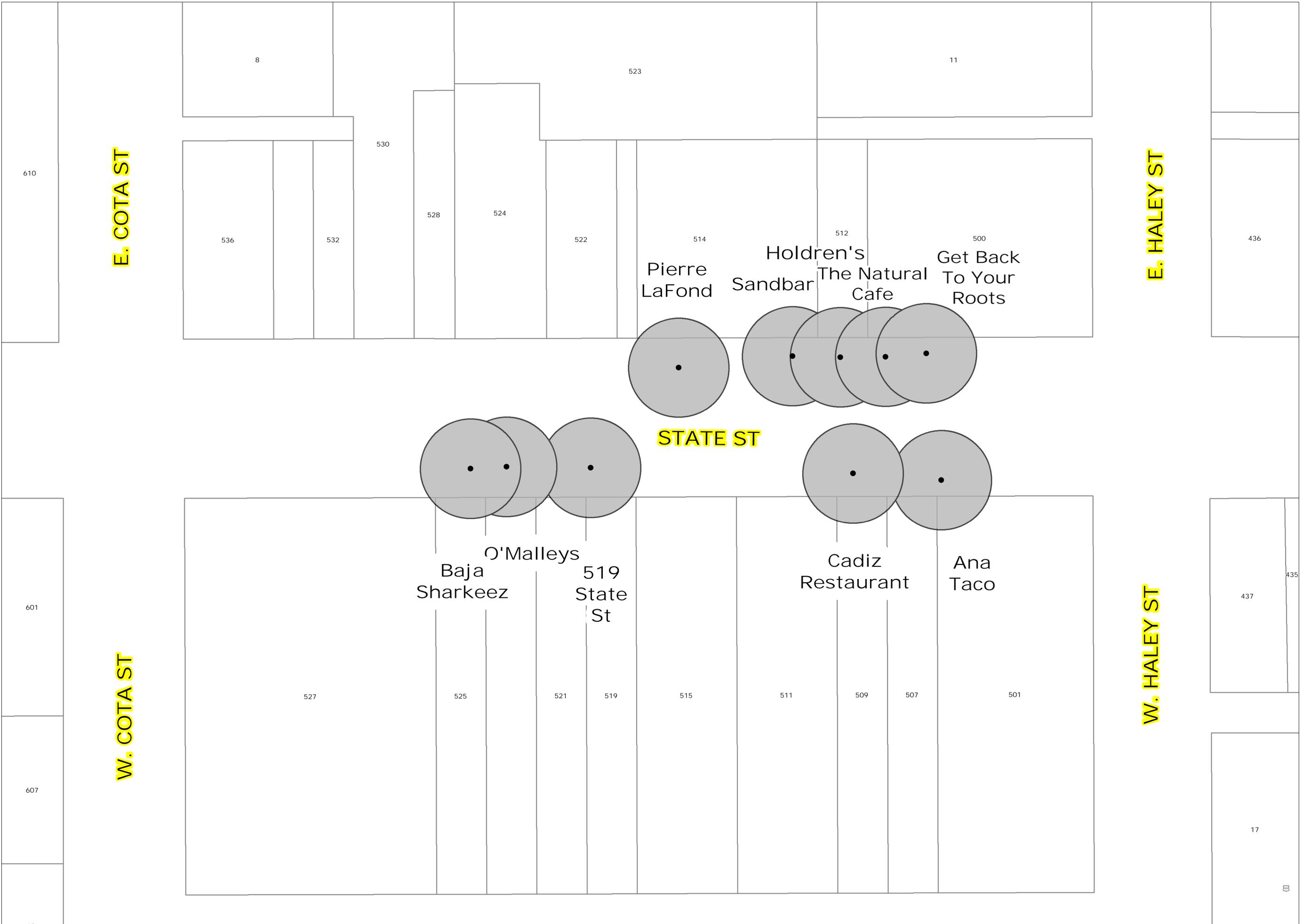
424 418
India House Restaurant

416 410
Killer Shrimp Restaurant

437 435 431 429 427
Whiskey Richards

425 423
Velvet Jones

STATE ST



E. COTA ST

W. COTA ST

E. HALEY ST

W. HALEY ST

STATE ST

State St Locations
500 Block
 March 10, 2015

Legend

- Restaurants
- 25ft buffer - Restaurants



Features shown hereon were compiled from the records of various public and private entities and are for informational purposes only. The City of Santa Barbara does not accept any responsibility for the positional or completeness of this information.





E. ORTEGA ST

E. COTA ST

W. ORTEGA ST

W. COTA ST

STATE ST

The Habit

Metro Four
Movie Theater



Features shown hereon were compiled from the records of various public and private entities and are for informational purposes only. The City of Santa Barbara does not accept any responsibility for the positional or completeness of this information.

State St Locations

600 Block
March 10, 2015

Legend	
● Benches	25ft buffer - Benches
● Restaurants	25ft buffer - Restaurants
● Movie Theater	25ft buffer - Movie Theater





E. DE LA GUERRA ST

E. ORTEGA ST

W. ORTEGA ST

STATE ST

Kai Sushi
Relais De Paris Restaurant

Pascucci Restaurant
Chipotle Restaurant

State St Locations
700 Block
March 10, 2015

- Legend**
- Restaurants
 - Benches
 - 25ft buffer - Restaurants
 - 25ft buffer - Benches



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E. CANON PERDIDO ST

E. DE LA GUERRA ST

W. CANON PERDIDO ST

STATE ST

BANK OF AMERICA

Starbucks Coffee

Coffee Bean and Tea Leaf



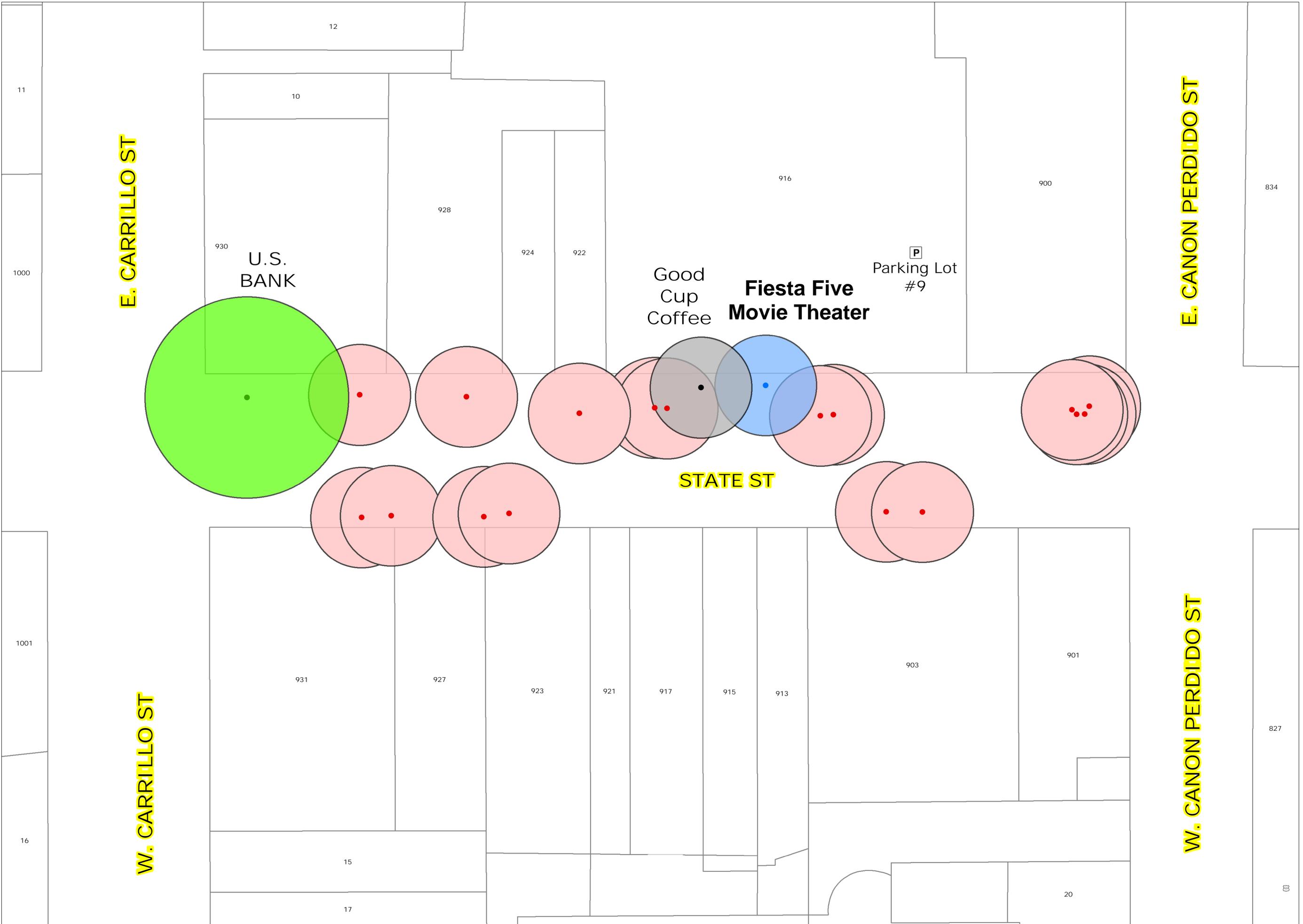
Features shown hereon were compiled from the records of various public and private entities and are for informational purposes only. The City of Santa Barbara does not accept any responsibility for the positional or completeness of this information.

State St Locations

800 Block
March 10, 2015

Legend	
● ATM's	 50ft buffer - ATM's
● Benches	 25ft buffer - Benches
● Restaurants	 25ft buffer - Restaurants





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State St Locations

900 Block
March 10, 2015

Legend	
● Movie Theater	 25ft Buffer - Movie Theaters
● ATM Locations	 50ft buffer - ATM
● Restaurants	 25ft buffer - Restaurants
● Benches	 25ft buffer - Benches





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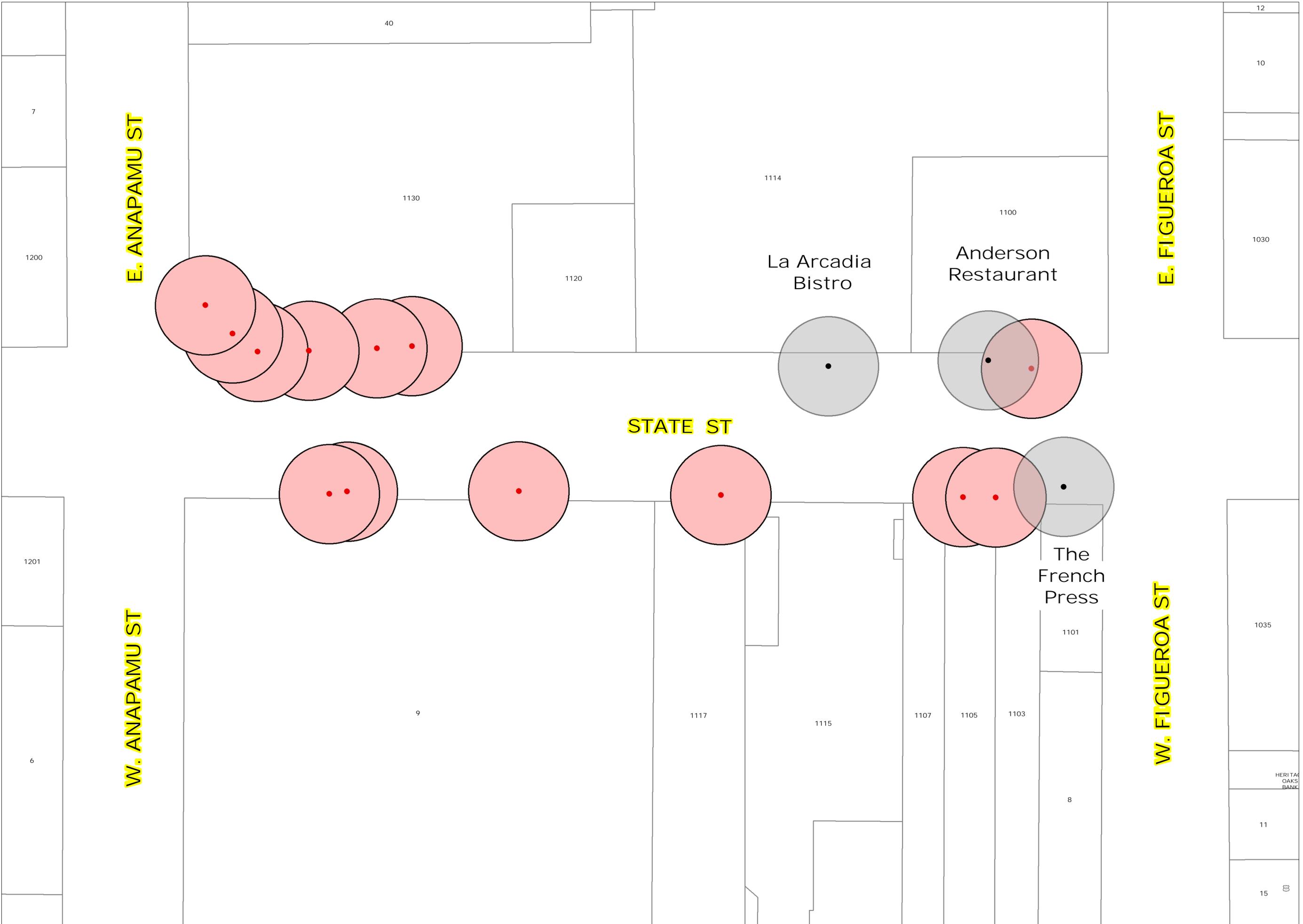
State St Locations

1000 Block
March 10, 2015

Legend

- ATM Locations
- Restaurants
- Benches
- 50ft buffer - ATM
- 25ft buffer - Restaurants
- 25ft buffer - Benches





Features shown hereon were compiled from the records of various public and private entities and are for informational purposes only. The City of Santa Barbara does not accept any responsibility for the positional or completeness of this information.

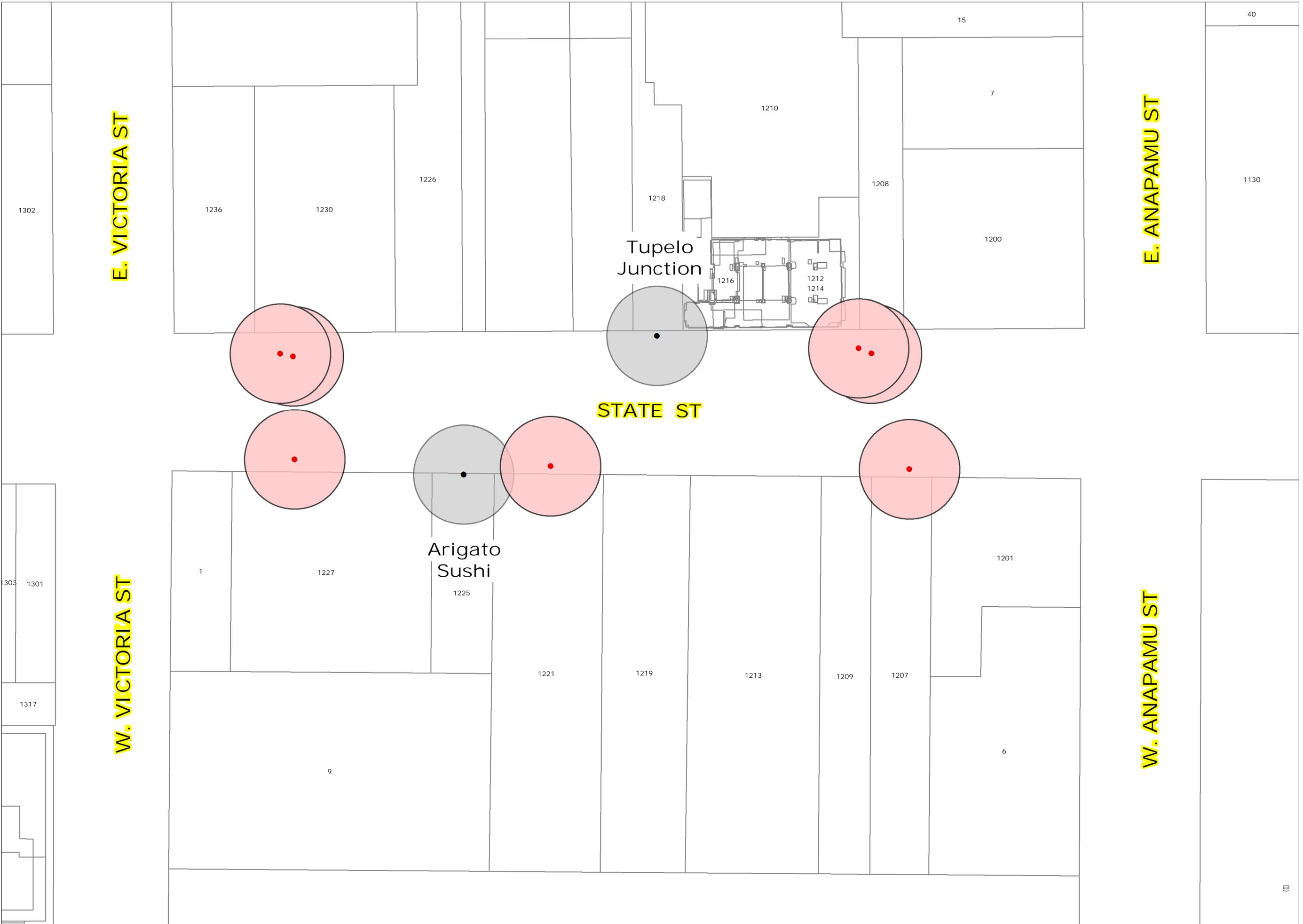
State St Locations

1100 Block
March 10, 2015

- Legend**
- Restaurants
 - Benches
 - 25ft buffer - Restaurants
 - 25ft buffer - Benches



HERITAGE OAKS BANK



Features shown hereon were compiled from the records of various public and private entities and are for informational purposes only. The City of Santa Barbara does not accept any responsibility for the positional or completeness of this information.

State St Locations

1200 Block
March 10, 2015

Legend

- Restaurants
- Benches
- 25ft buffer - Restaurants
- 25ft buffer - Benches





CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015

TO: Mayor and Councilmembers

FROM: Administration Division, Airport Department

SUBJECT: Airport Aircraft Rescue And Firefighting (ARFF) Budget Discussion

RECOMMENDATION:

That Council hear a staff discussion on potential adjustments to the Fire Department staffing for Federal Aviation Administration required Aircraft Rescue and Firefighting (ARFF) services at the Airport.

EXECUTIVE SUMMARY:

In the last ten years the Airport has experienced a 26.2% decrease in passengers. In April of 2014 American Eagle pulled out as a key carrier; and one year later, in January 2015, Frontier Airlines left. The loss of these services and the attendant decline in passengers have significantly impacted the Airport's finances as they affect all airport revenues, including landing fees, terminal rents, parking, rental cars leases, and concessions. In addition, it results in a decline in Passenger Facility Charges (PFCs) and the "entitlement" portion of the FAA Airport Improvement Program (AIP) grant.

In response to the loss of American Eagle last year, the Airport acted quickly to re-balance its budget by reducing expenditures and enhancing revenues where possible. These steps resulted in cost savings and increased revenue of more than \$1 million. Due to the recent loss of Frontier Airlines, the Airport has negotiated minor increases to fees which, combined with other cost cutting measures where possible, enabled the Airport to once again re-balance its operating budget. However, operating revenues will not be sufficient to fund the Airport's capital program, and will therefore require the use of reserves over the next three years. Airport capital needs range from \$750,000 - \$860,000 for over the next two fiscal years, including AIP grant match.

In light of unfavorable trends in the airline industry that began several years ago, and its impacts on the City's airport, in Fiscal Year 2014 the Airport and Fire Departments were directed to evaluate alternatives to providing Aircraft, Rescue and Fire Fighting (ARFF) services while maintaining Fire best practices.

The Study recognized the high standards of the Fire Department, but also stated that reducing the current level of service from three to two staff per shift would still be in compliance with FAA requirements. While reducing ARFF services is not the ideal situation, doing so would result in savings to the Airport of approximately \$600,000 annually. Given the financial challenges facing the Airport, staff believes reducing services is the only remaining alternative.

DISCUSSION:

Background

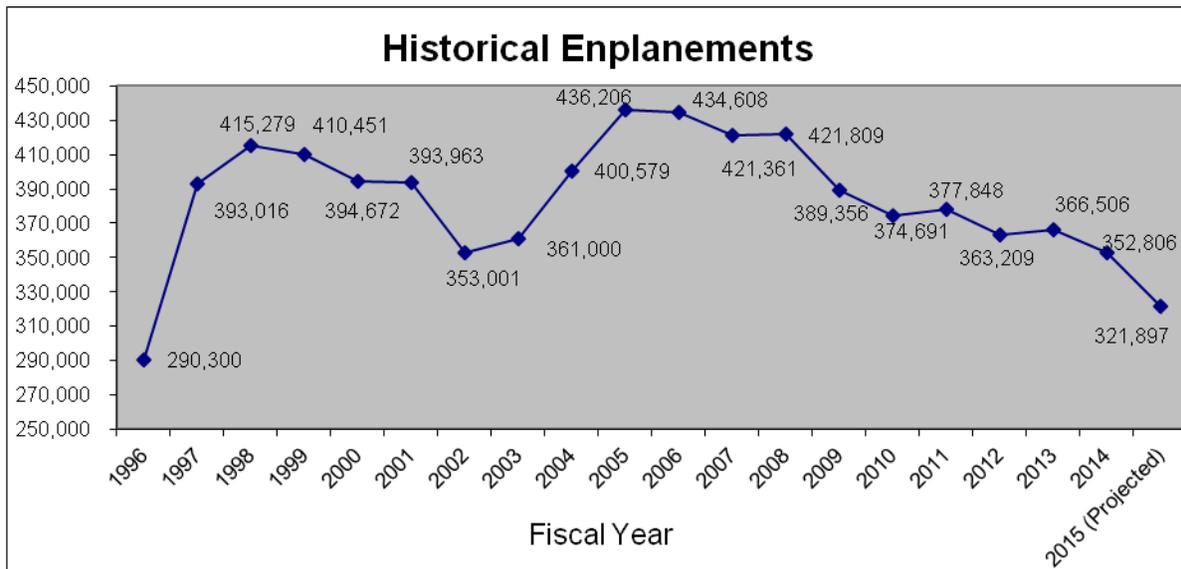
The Santa Barbara Airport is financially self-supporting through tenant rents and user fees. A number of changes in the airline industry within the last 10 years have led to significant declines in the number of passengers at the Airport. Additionally, the vacancy of two prime commercial properties, Woolever and the Elephant Bar, on the north side of Hollister Avenue during the last 18 months has contributed to the financial difficulties. Currently, the Airport has fully funded reserves; however, financial projections for the near future indicate a significant use of reserves to provide limited but critical capital expenditures.

Airline Industry Impacts

With airline merger activity in the last ten years, the airline industry has reduced overall seat capacity by 20%. While this reduction has impacted all airports, for Santa Barbara the impact has been a 26.2% decrease (see chart on page 3). Projections for enplaned passengers in Fiscal Year 2015 are the lowest since 1996.

The decline in passengers can be attributed to a number of trends in the airline industry, including:

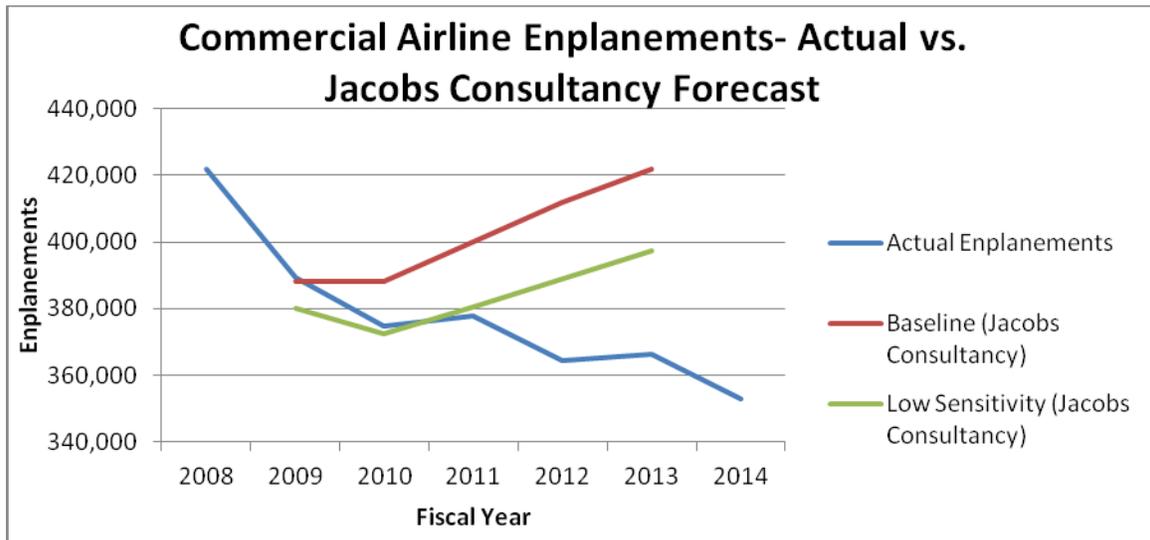
- Airline mergers
- General macroeconomic trends, including fuel prices
- Transition of regional airline fleets from 50- to 70-seat and greater sized aircraft
- Pilot shortages, especially for regional airlines, based on new FAA regulations
- Airline consolidation of flights at large hub airports and pulling flights away from small and medium hubs
- Near-range international expansion by low cost carriers



Bond Debt Service Requirements

Airport net revenues were pledged for the repayment of the 2009 Bonds that were used to finance the construction of the Airline Terminal. Based on the Airport’s financial history as a self-supporting enterprise, it was anticipated that Airport operating revenues would be adequate to cover the annual principal and interest payments of \$1,823,905 without any support from the City’s General Fund. In addition, the bond documents contain certain covenants to the bondholders that “net revenues” would be 1.20 times the annual debt service on the bonds. The Airport is currently not meeting this debt service coverage requirement.

A financial feasibility study in April 2009 prepared by Jacobs Consultancy prior to the issuance of the 2009 Bonds and subsequent construction of the new Airline Terminal analyzed the effect of declining passengers. The City requested a sensitivity analysis to indicate potential financial difficulty with reduced passenger traffic. Actual enplanements in Fiscal Year 2013 were 7.8% below Jacobs Consultancy’s “low sensitivity” projections and 13.2% below “baseline” projections (see chart below).



Notwithstanding declining revenue, debt service on the Airline Terminal bonds has been and will continue to be paid by the Airport and it is included in the Airport's budget. In the extremely unlikely event that the Airport was unable to make debt payments, the Airline Terminal bond is secured by the General Fund.

Airport Financial Outlook

Passenger declines are significant to the Airport budget because they affect all revenue lines of business at the airline terminal, including terminal rents, parking, rental cars, restaurant, and gift shop, as well as Passenger Facility Charges (PFCs) and the "entitlement" portion of the FAA Airport Improvement Program (AIP) grant.

The decline in passengers and airline services have created a structural challenge in that the costs of the airport terminal are largely fixed and were based on the expectation that airline service would be much higher. Consequently, costs associated with the building – debt service on the debt issued to finance the new terminal, maintenance and utilities – are relatively fixed. However, the Airport staff's ability to recover these costs from the existing airlines is difficult. Airlines are highly sensitive to fees and charges relative to competing airports. In fact, the full cost of the terminal is not being recovered, and is being subsidized by revenues generated in the commercial and industrial properties on the north side of Hollister Avenue, which are separate from the airport operations. Until the Airport is leased out to its full capacity, it will be difficult to recover the full cost of the terminal from airlines and other tenants through rents and landing fees.

Passenger declines in Fiscal Years 2014 and 2015 are related to the departures of American Eagle and Frontier Airlines, respectively. In Fiscal Year 2015 the Airport balanced its budget by reducing expenditures and enhancing revenues. Specifically, the Long-Term Parking Lot 2 was closed and the shuttle discontinued; fuel flowage fees

for jet fuel were increased; and a new fuel flowage fee for commercial airlines was initiated along with an increase to airline rates and charges at the Airline Terminal.

These actions resulted in combined cost savings and increased revenue totaling more than \$1 million. Reserves in the Airport Capital fund were used for the FAA AIP grant match, Streets Maintenance, and "Crash" Phone Replacement projects.

Fiscal Years 2016 and 2017 Budget

Based on current projections for Fiscal Years 2016 and 2017, the Airport Operating budget *excluding capital needs and FAA grant match*, is balanced. However, it does rely on proposed increases to airline terminal rent and landing fees, and by reducing costs where possible. These proposed increases have been negotiated and agreed to by the airlines. Certainly, Airport staff has to be sensitive to the fact that airlines operate on a thin profit margin and are sensitive to costs increases and how fees align with other airports.

Airport capital needs range from \$750,000 - \$860,000 for Fiscal Years 2016-2017, including AIP grant match. The capital needs include:

- Maintenance of commercial/industrial buildings, which the Airport has a contractual obligation to maintain. Most of these buildings were constructed during WWII and some require significant repairs, e.g. HVAC, roof, or plumbing and electrical replacement or repairs. These leased buildings generate approximately \$4.5 million annually in rental income.
- Deteriorated parking lots at the Airline Terminal, car rental Quick Turnaround Facility, or leased by Airport tenants.
- Airline Terminal maintenance.
- Mitigation, monitoring, and reporting for the Goleta Slough Tidal Restoration, a coastal development permit condition for the 2006-2007 Airfield Safety projects.
- Airfield Operations Area (AOA) pavement maintenance.
- AIP grant match. The Airport match for the AIP grant is 9.34%, or approximately \$250,000-\$315,000 per year. The AIP grant provides federal funding of approximately \$2.7 million for essential safety and security needs with a favorable City matching requirement.

Santa Barbara Aircraft Rescue and Firefighting Services

The Fire Department has been providing ARFF services at the Airport since July 1, 1990 after the Airport Director transferred the service from Santa Barbara County Fire Department.

The ARFF Station 8, which was constructed in the early 1990's, was jointly funded by FAA Airport Improvement Program grants and Airport Capital funds. The Airport provides the two ARFF apparatus which were purchased in 2002 with FAA Airport

Improvement Program grant funds, as well as a smaller “Rescue Squad” unit. Station 8 also houses the City’s Mass Casualty unit which can provide EMS supplies and staging equipment for 100 patients. Additionally, the Airport pays for specialized equipment (silver suits), routine supplies, and services.

The Fire Department provides nine permanent positions - three Captains and six Engineers - to staff the ARFF station on a 24/7 basis. These personnel are trained and certified for airport firefighting (live fire drills), rescue, and EMS operations under both the FAA and City Fire Department requirements.

The FY 2015 ARFF staffing budget is \$2,079,766 and support costs are \$83,521 for a total program cost of \$2,163,287.

FAA Regulatory Requirements and ARFF

To accept commercial air carrier service, an airport is required to obtain certification from the Federal Aviation Administration, per the Code of Federal Regulations (CFR) Title 14, Part 139. CFR Part 139 regulations include requirements for equipment, firefighting agents, and operational requirements such as personnel training and emergency response times.

ARFF services are divided into five indices, A through E, based upon aircraft length and average daily departures of air carrier aircraft (see Table 1 for a summary of FAA indices and requirements).

Scheduled airline service at SBA is currently Index B. The Airport has, however, historically published the higher ARFF Index C capability with FAA based upon its ability to fund Index C service.

In April 2015, the Airport will update the FAA reports and publish an Index B capability consistent with current airline operations. For the foreseeable future, scheduled airline service at SBA will consist of Index B aircraft.

Table 1- FAA Part 139.315 Airport Indexes and Firefighting Baseline Requirements

Measures by Index	Airport Index				
	A	B	C	D	E
Max Aircraft Length (ft.)	<90	90-125	126-158	159-199	>200
Typical Seating	86	170	280	400	592
# of ARFF Units	1	1 or 2	2 or 3	3	3

Measures by Index	Airport Index				
	A	B	C	D	E
Total FF Agents on Units	500 lb. Sodium Dry Chem or 450 lb. potassium Dry Chem & 100 gal. of H2O w/foam	Same as "A" with 1,500 gal. of H2O w/foam	Same as "A" with 3,000 gal. of H2O w/foam	Same as "A" with 4,000 gal. of H2O w/foam	Same as "A" + 6,000 gal. of H2O w/foam
ARFF Staffing	1	1	2	3	3

Source: Citygate Associates, LLC

Citygate Associates, LLC ARFF Study

In light of the trends in the airline industry, in Fiscal Year 2014 the Airport and Fire Departments were directed to investigate cost reductions for ARFF services while maintaining Fire best practices.

The Airport and Fire Department jointly funded a report prepared by Citygate Associates, LLC ("Citygate"). Citygate was retained to conduct a fire service review for the Airport. The study was commissioned "to understand the baseline Federal Aviation Administration (FAA) firefighting requirements for this class of airport, assess the current levels of fire service provided by the City Fire Department, and to understand current and likely future passenger aircraft operations." Citygate was also retained to identify a services plan that could strike a balance between best practices delivery of aviation firefighting services and the Airport's economic ability to provide differing levels of fire service (Citygate Executive Summary). The final report from Citygate was published in September 2014.

The Citygate Study (Study) found the City Fire Department meets or exceeds FAA requirements for training, communication programs, emergency planning, and interagency procedures. The ARFF apparatus given age and typical life span can be classified to be in fair to good condition. The Airport's Emergency Plan and the most recent FAA mandated disaster drill, and the current interagency procedures, meet best practices.

The Study determined the following:

The ARFF is staffed at all times (24/7) by one Fire Captain and two Fire Engineers, for a total of three positions. Per the Study, in order for the risks to be protected in Santa Barbara, the minimum daily ARFF staffing needs to be two (2) properly-trained and certified airport firefighters". However, the study also noted that, given the risks present and the premier status of Santa Barbara, it is not at all unreasonable, or out of the national norm, to staff the ARFF station with three personnel if the City can afford to do so.

While reducing services is not ideal, the Airport is in fact facing significant financial challenges and has limited options to materially change the current financial trajectory. Reducing security is not an option since the current levels are mandated by the Transportation Security Administration (TSA); reducing maintenance and/or custodial costs tied to the terminal would not be prudent given the terminal is brand new and maintaining it to appropriate standards is essential. Moreover, the maintenance costs are largely funded from the airlines through rents and fees. Finally, while pairing down administrative costs have been considered and implemented, where appropriate, the savings would not have a material impact on the financial picture.

The Study provided the following cost reduction options and estimated amounts, based on the Airport's budgetary needs:

- 1) Choose to have the City General Fund pay the third firefighter position because of the economic and tourism benefits generated by the Airport, saving the Airport \$589,200.
- 2) Reduce the third firefighter position completely, saving the Airport \$589,200.
- 3) Reduce the third firefighter position to core flying hours only, saving the Airport \$383,734.

Based upon current airline schedules, Option #3 to staff during core flying hours is not feasible.

Implementing Option #2 through firefighter attrition, with the transition occurring by mid-year of Fiscal Year 2016, would reduce the use of Airport Policy Reserves and would meet the Study's findings while exceeding the FAA requirements. This option eliminates the need for General Fund subsidies to the Airport as described in Option #1, while allowing time for attrition in the Fire Department.

The Airport will continually assess future needs to reinstate the third firefighter position based upon funding availability and/or changes in air service.

PREPARED BY: Hazel Johns, Airport Director

SUBMITTED BY: Hazel Johns, Airport Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015

TO: Mayor and Councilmembers

FROM: Water Resources Division, Public Works Department

SUBJECT: Stage Two Drought Update

RECOMMENDATION:

That Council receive an update on the status of the current drought and related efforts.

DISCUSSION:

On February 11, 2014, Council declared a Stage One Drought Condition and asked customers to reduce water use by 20 percent. Council requested that staff keep them informed and report back monthly with a status update on the City's water supplies, conservation efforts, and current work efforts. On May 20, 2014, Council declared a Stage Two Drought Condition in response to a continued water shortage forecasted for next year, and the inability of the community to reduce water usage by 20 percent. This report will cover the following items:

- Water Supply Outlook/Weather Forecast
- Drought Response Capital Projects
- Drought Staffing
- Conservation Efforts

Water Supply Outlook

Despite some promising rainfall in the first part of this water year, our water supply outlook remains unchanged. We need prolonged wet weather to make a significant impact on our current water supplies. The National Oceanic and Atmospheric Agency (NOAA) is projecting equal chances of above and below average rainfall throughout the remainder of the rainy season. We have seen below average rainfall in January, February and March, and to further compound the matter, we have seen above average temperatures, which has significantly diminished the benefits of the small amount of rain we have received. Due to the uncertainty in projected rainfall, staff is planning for continued drought conditions. Staff continues to work on securing additional

supplemental water, accelerating drought-related capital projects, and sustaining a strong message for extraordinary conservation. Staff will be presenting the most recent water conservation numbers for March 2015. While water conservation in February 2015 was only six percent below average, the cumulative savings from July 2014 through February 2015 were 22%.

Drought Response Capital Projects

Staff is moving forward with the design and construction of capital projects to assist with the water supply during the drought. Highlights include construction of a new Alameda Well and operation of all three downtown wells: the Corporation Yard Well, Vera Cruz Well, and City Hall Well. Water from the three wells is being treated at the Ortega Groundwater Treatment Plant and then put into the water distribution system.

On March 24 and 26, 2015, staff conducted interviews with design-build-operate contractors for the reactivation of the City's Desalination Plant. Staff is currently in negotiations with the top firm and anticipates awarding a contract for the project in June 2015. Confirmation of loan funding for this project is anticipated in the same June timeframe. The Desalination Plant is planned to be operational in Fall 2016.

Efforts to secure supplemental water for next year are going well. We are anticipating having 4,500 acre-feet of additional water under contract by May 2015.

Drought Staffing

Workload for the Water Conservation Program has increased significantly during the drought. To support program needs, staffing for the Water Conservation Program increased in Fiscal Year (FY) 2015. Initially, three hourly staff were hired to work full time, with an annual limit of 1000 hours. In order to allow trained hourly staff to continue working full-time during FY 2015, Council adopted Resolution 14-078, amending the Position Control and Salary Resolution to include three limited-term Water Resources Specialist positions that expire on June 30, 2015. Given continued and worsening drought conditions, the contract term for these positions is anticipated to be extended to June 30, 2016.

In addition, two regular 0.5 Water Resources Specialists have been working full time during drought. For Fiscal Year 2016, staff will be requesting that these positions be increased to 0.75, along with a budget that allows up to full-time support. This will allow current staff to continue working up to full time and accrue benefits for 0.75 that correspond with their respective hiring date. These positions will be re-assessed after the drought is over and will be adjusted depending on workload and program needs.

Finally, staff anticipates the need for one more hourly position in FY 2016 to support enforcement of additional water use regulations, should they become necessary as part of a Stage Three Drought condition.

Water Conservation Program staffing support will be included in the FY 2016 budget request as well as the proposed FY 2016 Position Control and Salary Resolution.

Conservation Efforts

Due to the high demand for the Smart Landscape Rebate Program during the drought, the budget of \$185,000 for FY 2015 has been spent. Additional funds, in the amount of \$80,000, have been reallocated to continue funding the rebate program. The additional funds came from the cost savings associated with the postponement of the Cachuma Operation and Maintenance Board pumping project at Lake Cachuma, which has yet to be activated.

Staff has increased the Water Conservation Outreach Program through an enhanced drought media campaign: additional targeted outreach, including increased weekly messaging through social media, online news outlets, and industry contacts; presentations to community and industry groups; additional printed materials with drought messaging; targeted utility bill messaging; drought signage at City facilities; and additional trainings and workshops.

PREPARED BY: Joshua Haggmark, Water Resources Manager/mh

SUBMITTED BY: Rebecca J. Bjork, Public Works Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015

TO: Mayor and Councilmembers

FROM: Water Resources Division, Public Works Department
Planning Division, Community Development Department

SUBJECT: Potential Stage Three Drought Condition Response Measures

RECOMMENDATION:

That Council receive a presentation and provide direction to staff on the potential Stage Three Drought Condition modified conservation target, water use regulations, and development restrictions.

EXECUTIVE SUMMARY

The City has been increasingly active in responding to record drought conditions over the past several years. The current Stage Two Drought Condition (Stage Two) has been in effect since May 2014, and has included City water use regulations and expanded public information. The State of California has also adopted regulations that affect how the City continues to respond to the drought. All indications are that the current water year will end the driest four-year period on record for Santa Barbara County. In response, in May of 2015, staff expects to recommend adoption of a Stage Three Drought Condition (Stage Three) and approval of a contract to reactivate the City's Charles E. Meyer Desalination Facility (Desal Plant). This report discusses the City's water conservation target and potential drought measures related to water use regulations, and development restrictions that could be used in a phased response during Stage Three.

DISCUSSION:

On February 11, 2014, Council adopted a resolution, declaring a Stage One Drought in the midst of a potential third consecutive dry year. On May 20, 2014, with no improvement in water supply during the last half of the rainy season, Council adopted a resolution declaring a Stage Two Drought. Consistent with the City's Water Shortage Contingency Plan and the 2011 Long Term Water Supply Plan, these actions triggered the following Stage Two responses:

- An increase in public information efforts to alert the public about the drought status and extraordinary conservation measures needed;
- Establishment of a water use reduction goal for City customers, which was increased to 20 percent, based on state-wide drought conditions and record low rainfall;
- Implementation of Stage Two water use regulations;
- Adoption of drought water rates, based on added costs of water supplies and anticipated water use reductions;
- Pursuit of water purchases to replace depleted surface water supplies; and
- Initiation of preliminary design and solicitation of Design/Build/Operate proposals for the reactivation of the City's Desal Plant.

In response, the community has achieved cumulative water savings in excess of the 20 percent target. The conservation target has consistently been met since Summer 2014, when drought water rates took effect. It is anticipated that proposed water rates for Fiscal Year 2016 will continue to incentivize further conservation.

It is now almost certain that the current water year will complete the driest four-year period on record, as measured by rainfall in the upper Santa Ynez River watershed, where the City's primary water supplies originate. As described in recent Council presentations, this will put significant additional strain on the City's water supplies. Accordingly, an inter-departmental staff team has been considering a range of options for possible action by Council to manage water use, should it be necessary to adopt Stage Three. We have met with the Water Commission for input on updated water use regulations and with the Planning Commission to discuss potential development restrictions. Primary considerations include understanding the context of the water demand associated with new water rates and the potential water savings that may be achieved through various actions.

This report discusses the City's water conservation target and potential actions that could be used in a phased approach under Stage Three, including water use regulations and development restrictions.

Water Conservation Target

The City's Long Term Water Supply Plan includes a policy to plan for short-term demand reductions of 15 percent from extraordinary customer conservation measures during severe droughts. These reductions are in addition to ongoing long-term efforts to improve water use efficiency. The policy recognizes that such reductions are a cost-effective way to stretch limited supplies and reduce the significant water supply costs associated with the drought response. The 15 percent value was based on a consensus that a reduction of nearly 50 percent during the previous severe drought resulted in unacceptable hardships. It was also acknowledged that conservation efforts since the last drought have likely reduced the ability to cut back during current and future droughts.

When Stage One was declared, a voluntary water use reduction target of 20 percent was established, partly for consistency with the Governor's statewide 20 percent target, and also in recognition that the current water year had started out well below average in rainfall, with the potential to result in the driest three-year period on record, which in fact occurred. Given the extremely dry conditions in recent months, staff expects to recommend increasing the water conservation target to 25 percent upon declaration of Stage Three. Given new regulations and anticipated Fiscal Year 2016 rate changes, this is a realistic target and will help efforts to procure adequate water supplies. Because the Fiscal Year 2016 water rate analysis was based on a 20 percent reduction in water use, the financial impacts of increased water conservation up to 25 percent will need to be addressed. Staff will discuss anticipated revenue loss and financial impacts during the Council presentation.

Water Use Regulations

The current Stage Two water use regulations are summarized as follows:

- Running water for irrigation requires a self-closing nozzle.
- Running water for cleaning is generally limited to the use of a pressure washer for preventive maintenance or correction of health and safety hazards.
- Irrigation by any means is generally limited to the hours of 6:00 PM to 8:00 AM for automatic systems, and 4:00 PM to 10:30 AM for manual systems, including hand-held hoses.
- Vehicle and boat washing is limited to commercial facilities with water recycling equipment or a hose with self-closing nozzle.
- Water use in fountains is limited to those that are indoor, on residential property, less than 25 square feet in surface area, or home to aquatic life as of the date of adoption.
- Swimming pools are required to be covered when not in use and may be drained by only one third, except as authorized for necessary repairs.
- Hotels, motels, restaurants, and other hospitality establishments are required to post a notice of the drought condition; restaurants must serve water only on request.

Enforcement has been on a complaint basis, where staff responds to instances of potential violations as they are reported or observed in the course of daily field activities. The community has responded well to the water use regulations, presumably in recognition of the severity of the current drought.

On March 17, 2015, the State Water Resources Control Board (State Water Board) updated the statewide water use regulations that were originally adopted on July 15, 2014. Key elements include a requirement to limit irrigation to no more than two days per week, and a blanket prohibition on the application of potable water to sidewalks, except where necessary to address an immediate health and safety need. The new regulations were developed on short notice, with less than a week to respond to proposed changes. Staff submitted comments expressing concern that the two-day-

per-week limitation could undo long standing efforts to educate water users on how to irrigate in response to plant needs, using real-time weather data and smart irrigation controllers. Staff also recommended that meeting the State's conservation target should be considered an alternative method of compliance with the regulations. Unfortunately, the regulations were adopted without these changes. Staff has submitted a request for State approval for exemption from the two-day-per-week watering limitation. The State regulations provide such an exemption for water suppliers whose rate structures comply with the California Water Code definition of an "allocation-based water conservation rate structure." Staff is currently awaiting response from the State Water Board.

Because of the community's success in meeting the conservation target, staff believes only minor changes to the Stage Two regulations are needed at this time, in addition to changes related to the State's new regulations:

- Use of running water would be allowed to pressure wash awnings, windows, and signs no more frequently than once every three months, and building surfaces once every twelve months; and
- The fountain restriction would be expanded to include residential fountains in excess of 25 square feet.

As shown on the attached "Stage Three Drought Phased Response Options," there are a number of additional regulations that can be used if the conservation target is not met. The ongoing success in meeting the water conservation target also means staff will recommend that the current complaint-based approach to enforcement continue during the first phase of the City's Stage Three response.

Development Restrictions

In December 2014, Council directed staff to discuss potential development restrictions with the Planning Commission and the public, in order to inform Council's decision on these potential development restrictions.

On February 12, 2015, the Planning Commission discussed potential drought-related development restrictions (refer to Attachment 1 – Planning Commission Staff Report). Outreach to the public and affected property owners/applicants was done in advance of the meeting. The Planning Commission's review focused on the following:

- Landscape deferral (voluntary and mandatory);
- Suspension of building permits for new pools;
- Suspension of building permits for projects with net new water use; and
- Zoning Ordinance Amendments to support water conservation.

The Planning Commission's general consensus was that the City should:

- Move forward with a mandatory landscape plant deferral as soon as possible;

- Implement a suspension on permits for new pools, understanding that this measure would be largely symbolic, but would more consistently regulate new pools and existing pools;
- Not implement a suspension on permits for projects with net new water use because the water savings benefit would be much less than the impact to the economy; and
- Move forward with Zoning Ordinance Amendments to support water conservation.

The Planning Commission suggested that if a suspension on building permits for projects with net new water use were implemented, the suspension should only apply to projects that have yet to be submitted for review by the Community Development Department's Planning Division. It was suggested that, when an applicant submits a project application, the applicant should be informed of any potential drought-related development restrictions. The applicant can then make an informed decision of whether or not to move forward with their project. Some Commissioners suggested creating options for projects with a "large" net new water demand to offset their new demand. (Refer to Attachment 2 for the Planning Commission Minutes).

Although the Planning Commission was very supportive of a Mandatory Landscape Deferral Program for new development, staff is concerned that this would require a significant amount of staff time to develop and enforce, yet the actual water savings would be minimal (refer to Attachment 1 for information on estimated water savings). Staff has since been considering a ban on the installation of plants that are not water wise (as defined in the City's Landscape Design Standards for Water Conservation) in new development projects as a simplified alternative to a Landscape Deferral Program. Such a ban would address the most water-intensive aspect of any new landscape installation, given that the City's existing Landscape Design Standards For Water Conservation require water-wise landscapes. Additionally, since the Planning Commission's review, the Governor issued Executive Order B-29-15, which prohibits irrigation with potable water outside newly constructed buildings unless by drip or microspray systems. Staff would include this restriction in the proposed development restrictions.

The City is the permitting agency for new groundwater wells within the City limits. The local groundwater basins within the City limits include Storage Units I and III of the Santa Barbara Basin, and portions of the Foothill Basin. The City relies on groundwater supply to meet public health and safety needs during droughts. Therefore, the City has an interest to manage the public resource. While a formalized groundwater management agency has not yet been established for the local groundwater basins, the City has authority to establish rules through its police powers. To protect and preserve remaining groundwater supply for public health and safety, staff is recommending adoption of a temporary drought ordinance that suspends approval of new well permits for properties that have feasible access to the City's municipal water system.

In summary, staff is recommending the following development restrictions be imposed as part of any Stage Three Declaration:

- Voluntary Landscape Deferral
- Mandatory deferral of the installation of new turf or high water-use plants
- Suspension on the issuance of building permits for new swimming pools
- Suspension on the issuance of permits for new wells
- Enforcement of Executive Order restricting irrigation for new buildings

Staff is proposing that these development restrictions be applicable to any project that has not submitted for a building permit as of the date of the Stage Three Declaration.

With regard to Zoning Ordinance Amendments to support water conservation, staff will continue to work on these; however, they would not be included as part of any Stage Three Drought Declaration.

Conclusion

Following a presentation on the potential Stage Three response options (refer to Attachment 3), staff will request input from Council, with the goal of incorporating Council's input into a recommended Stage Three Drought Resolution for adoption in May 2015.

ATTACHMENT(S): 1. Planning Commission Staff Report, February 12, 2015
2. Planning Commission Minutes, February 12, 2015
3. Stage Three Drought Phased Response Options

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APPROVED BY: City Administrator's Office



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: February 5, 2015
AGENDA DATE: February 12, 2015
SUBJECT: Consideration of Drought-Related Development Restrictions
TO: Planning Commission
FROM: Planning Division, (805) 564-5470, extension 4552
 Renee Brooke, AICP, Senior Planner *RLB*
 Allison De Busk, Project Planner *ALD*

I. BACKGROUND

In response to the on-going drought situation, on October 14 and December 16, 2014, the City Council received reports on potential drought-related development restrictions and water use regulations. The Council directed staff to work with the Planning Commission to further develop potential development restrictions.

This is a major policy issue and feedback from the Planning Commission and the public will help inform the Council prior to their decision.

II. RECOMMENDATION

Review detailed information about water use from new development, receive public input, and provide feedback to staff and the City Council on potential drought-related development restrictions.

III. DISCUSSION

Per the City's adopted Water Shortage Contingency Plan, City Council should consider regulations on water use and suspension of permit approvals during Stage Two and Stage Three Drought Conditions. On May 20, 2014, a Stage Two Drought Condition was declared and water use regulations are currently in effect. However, no suspension of permit approvals was adopted at that time, nor have any other development restrictions been adopted since.

An inter-departmental staff team has been considering a range of options for possible action by Council to manage water use should a Stage Three Drought Condition be declared. These measures could also be implemented during Stage Two if deemed appropriate/necessary.

The primary drought-related development restrictions currently being considered include:

- Voluntary Landscape Deferral
- Mandatory Landscape Deferral
- Suspension of permits for new pools
- Suspension of building permits for projects with net new water use

Additional information on each of these options is provided in the subsections below.

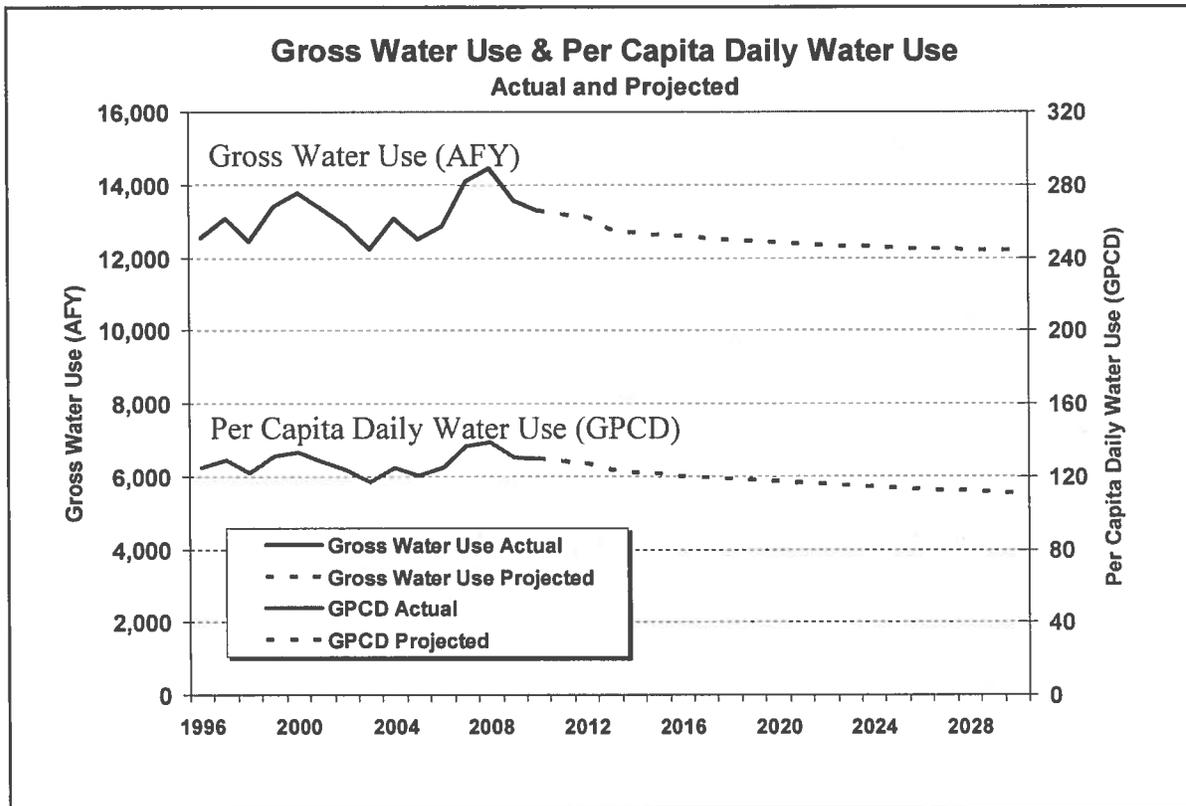
When Council considers whether or not to impose development restrictions or additional water use regulations, it will be important to consider them in the context of how much water can be saved by their implementation. During a normal year, the City’s water demand is 14,600 acre feet per year (AFY). During a drought, the City’s targeted water demand is 80% of normal demand, or 11,680 AFY. On average, new development represents approximately 0.30% of the City’s drought water demand projection, or 28-40 AFY (refer to Table 1 below). This estimate is based on information provided in the General Plan Update Final Environmental Impact Report (FEIR) and City data on development over the last ten years, as described below.

The FEIR prepared for the City’s General Plan Update included an assessment of planned growth (assuming 2,800 new residential units and 2 million square feet of nonresidential development) over the 20-year planning period (2010-2030). This additional growth was estimated to increase long-term citywide water demand by a cumulative total of 791 AFY by the year 2030. This breaks down to approximately 40 AFY of annual new water demand, representing 0.34% of the annual drought demand projections.

City staff reviewed completed construction projects in the City over the last ten years (as determined by issuance of a certificate of occupancy) and found that an average of 28 AFY of new water demand went online each year from 2004-2013. Although the number varied greatly from one year to another (ranging from 8 to 55 AFY), this time period captured a development boom as well as the recent recession, and should serve as a realistic average in gauging development over the next 5 years. A 28 AFY increase would represent 0.24% of the annual drought demand projections.

Table 1: NET NEW WATER USE FROM DEVELOPMENT		
	Estimated (Per General Plan Update FEIR)	Actual (Average over last 10 years)
Acre Feet Per Year (AFY)	40 AFY	28 AFY
Annual Demand (% of Annual <u>Normal</u> Water Demand (14,600 AFY))	0.27%	0.19%
Annual Demand (% of Annual <u>Drought</u> Water Demand (11,680 AFY))	0.34%	0.24%

While it may seem surprising that new development represents such a small portion of the City’s water demand, this information is consistent with data from the City’s 2011 Long-Term Water Supply Plan (LTWSP). The LTWSP anticipates declining potable water demand due to continuing water conservation measures (long-term efficiency improvements such as updated plumbing codes and appliance standards) offsetting the effects of new development, as illustrated in the following chart from the City’s 2010 Urban Water Management Plan update (refer to graph below).



During the last prolonged drought event (approximately 1986-1992), significant time and effort was spent to determine, on a case by case basis, if a proposed project could be provided sufficient water supplies without significantly impacting the City’s ability to provide adequate supplies to existing users. Two major differences today, in comparison to that last significant drought, are that new projects have substantially lower water use due to required water efficient plumbing fixtures and landscaping, and there are significantly fewer projects in the pipeline (estimated demand of 616 AFY for all pending and approved projects in 1986 vs. 133.48 AFY¹ currently). Additionally, the City’s overall water consumption is less now than it was back then (approximately 16,225 AFY in 1986 vs. approximately 14,600 AFY currently).

While the water demand from new development is a very small portion of overall system demands, a drought emergency might warrant a building moratorium on projects that add any new demand to the system. During severe drought, when extraordinary conservation is required of existing users, demand from new development may be a concern.

On October 14, 2014, the City Council concurred with staff that it makes most sense to impose any potential restrictions at the building permit phase rather than at the planning phase, understanding how long it takes projects to get through the initial planning approvals, and that the actual water use goes online at the time of occupancy and not planning approval.

¹ Refer to Table 2 below and Exhibit B.

A. DEFERRAL OF LANDSCAPE INSTALLATION

This proposed restriction would involve a deferral of building permit issuance for the portion of a project that involves “aesthetic” landscape planting installation. Landscape plantings and features that serve a specified purpose beyond aesthetics would continue to be required, such as:

- plantings required for compliance with the City’s Storm Water Management Program (required for the City to remain in compliance with its permit from the Regional Water Quality Control Board);
- plantings required as mitigation measures in an environmental document;;
- creek restoration;
- erosion control on slopes or to address landslide threat.

Hardscape and underground irrigation would be required to be installed, and interim groundcovers that do not require watering (e.g. mulch, bark or gravel) would be required, in addition to the landscape features that are not purely aesthetic, as listed above. Refer to Exhibit A for a rough draft of the landscape deferral process, as currently envisioned by staff.

The first phase of the landscape deferral would be voluntary for any applicant that chooses to defer landscape installation. Staff cannot predict the number of new developments that would take advantage of a voluntary landscape deferral, but we think it would be relatively low due to financing considerations and aesthetics. Nevertheless, the City has received inquiries about this, so we do think that some (particularly Public Works and Parks) projects would take advantage of a deferral. Should the drought continue, we anticipate that this voluntary deferral would become mandatory.

This would only apply to new development projects for which a landscape plan is required. In general, voluntary replacement of landscaping for single-family homes would not be regulated, although Water Resources staff have been encouraging residents hold off on installing new landscaping until after the drought.

Staff anticipates that the landscape deferral would be structured such that design review boards and Water Resources staff would continue to review and approve landscape plans per current City standards, and the approved landscape plan would remain on record as the required installation once the drought is over. Design review boards would also review and approve the interim landscape plan, which would include all hardscape and interim groundcovers.

Staff would need to track all of the deferred landscape plans and notify all affected parties when the drought is over of the deadline to install the required landscaping (could be 3 to 6 months after end of drought). Bonds or other forms of security/documentation may be required in order to ensure future compliance, although staff’s initial thought is that, except for single-family subdivisions, handling compliance through an enforcement case may be more effective and efficient.

Landscape deferral was required during the last drought, and included exemptions for trees and shrubs and landscape material purchased and/or contracted for prior to the adoption of the landscape deferral regulations. In addition, developers and/or landowners were able to request exemptions on a case-by-case basis for slope stability, public health and safety, or hardships.

Staff's initial thought is that including exemptions could be cumbersome and, given that the deferral would only be for the aesthetic portion of the landscape plan, may not be necessary at this time.

Landscaping is estimated to account for approximately 50% of a site's overall water use. Since new development represents approximately 0.30% of the City's drought water demand, a complete restriction on landscape installation for new development would represent approximately 14-20 AFY, or 0.15% of the drought water demand. However, since the deferral would only cover the purely aesthetic portions of the landscape plan, the amount of water saved would be even less than that. Staff estimates that a landscape deferral program for purely aesthetic landscaping would, on average, reduce a project's net new water use by approximately 11%. This would translate to water savings of approximately 3.0-4.4 AFY (based on an average new yearly demand from new development of 28-40 AFY), or approximately 0.02-0.038% of annual drought water demand. The water savings would generally be more significant on larger project sites and on residential projects rather than on mixed-use or non-residential, primarily because the mixed-use and non-residential projects are in-fill developments that rely on all landscaped areas to satisfy storm water management requirements.

As a City, we want to prioritize maintenance of existing trees and shrubs, and implementing a temporary landscape deferral may help to achieve that. But, it would mean a deferral on aesthetics for new development/significant remodels. It also means, among other things, that new common outdoor areas for multi-family development may not be landscaped, and parking lot trees would not be planted to provide shade or reduce the heat island effect. However, these trade-offs may be warranted given the current drought condition.

B. SUSPENSION OF NEW POOLS

This proposed restriction would involve a deferral of building permit issuance for the portion of a project that involves installation of a new pool. Spas are not recommended for inclusion in the proposed suspension due to their small size and because they are typically covered, which minimizes evaporation. However, it would make sense to define a maximum allowable spa size as part of any regulations.

Based on a review of building permits issued over the last 5 years, staff has determined that an average of 14 new pools are installed each year. Working with Water Resources staff, we estimate that the average pool has a volume of 18,446 gallons, with an annual water use of about 23,483 gallons due to evaporation, backwashing, and draining/refilling for control of salt content.² Based on 14 new pools per year, annual water demand is estimated to be 0.79 AFY for initial filling of pools permitted in the first year, with subsequent annual demand of 1.8 AFY, for filling of new pools and continued operation of pools permitted in the prior year. This represents 0.015% of projected annual drought water demand.

² The estimated evaporation rate of 36 inches per year assumes use of a pool cover that reduces annual evaporation losses by 40% compared to an uncovered pool. The drain/refill rate is assumed to be limited to 33% per year, consistent with current drought regulations.

As part of the Stage Two Drought Declaration, there are water use regulations that prohibit the draining or filling of existing pools by more than one third, unless authorized. However, there are no restrictions on filling new pools. The proposed restriction would bring some consistency to the treatment of new and existing pools.

Staff did consider the option of allowing the proposed pool to be constructed, but not allow it to be filled with water. This would address some of the construction/access limitations associated with building a pool after any other construction on the site is complete. However, there can be structural issues associated with not filling the pool with water after construction. Additionally, most of the pools permitted by the City are not part of a larger development/redevelopment. For these reasons, staff finds that it is simpler to consider this as a complete suspension on the issuance of building permits for new pools during the drought.

C. SUSPENSION OF BUILDING PERMITS FOR PROJECTS WITH NET NEW WATER USE

This proposed restriction would involve full building permit suspension for projects that result in net new water use. Water use would be determined based on land use per the City's 2009 Water Demand Factors (refer to Exhibit C). This means that water use calculations would be based on typical citywide water use rates for the identified land use rather than historical water use at a particular site (as was done during the last significant drought). If a project does not result in a net increase in water use, then it could proceed without restrictions. If a project does result in net new water use, then it could complete the planning process, but would not be allowed to submit for a building permit. Staff believes that if this development restriction is enacted, it would likely include exemptions, and those are discussed below. Installation of landscape plants and pools for projects with no net new water use would be restricted per the proposed landscape deferral and pool restrictions outlined above.

It should be noted that this development restriction would still allow for remodels or additions to residential units, including new accessory buildings, as long as no new units are created. This is because the water demand factors for residential uses are based on unit count and lot size, and neither the size of the structure nor the number of bathrooms/fixtures contained therein would change the Water Demand Factor.

In calculating net new water use, staff would need to define "vacant" and establish a rule for how long previously demolished structures get credit for the prior use if not part of a larger development project.

As of January 26, 2015, all of the pending (submitted but not approved) and approved (approved but no building permit issued) projects would result in 133.48 AFY of net new water use (refer to Table 2 below). These numbers represent projects in various stages of the process that have been submitted over many years (refer to Exhibit B for a list of the projects and their associated water demand). Some of these projects may never come to fruition, but it represents a worst-case analysis for purposes of context. Even if all of the projects currently in the pipeline were approved and built in the next year, it would represent just 1.14% of the annual drought water demand projection (0.91% of normal year demand).

Table 2: POTENTIAL WATER USE FROM ALL PENDING AND APPROVED NEW DEVELOPMENT (AFY)				
PROJECT STATUS	LAND USE			TOTAL
	Residential	Mixed Use	Non-Residential	
Approved (No Building Permit Issued)	29.20	22.68	10.90	62.78
Pending (Not Approved; includes PRTs)	42.96	22.55	5.19	70.70
TOTAL	72.16	45.23	16.09	133.48

Exemptions

If a restriction on development with net new water use were to be implemented, staff anticipates that it would include exemptions to that rule. For example, projects that would result in a minimal increase in water demand or those projects deemed a priority (see examples below) would be exempt. Some or all of these exemptions could be considered, depending on how severely the City wants to limit new development. Potential exemptions to the “no net new water use” regulation could include:

- Affordable Housing Projects (100% Affordable) due to the City’s General Plan policies supporting affordable housing and in accordance with State law.
- Projects for essential services. Some examples include:
 - Governmental Function Projects (e.g. schools, parks, libraries, Public Works projects)
 - Social Benefit and Public Health Projects (e.g. shelters and medical clinics)
- Projects that allow for reasonable development without adding significant additional demand (e.g. projects proposing a non-residential addition of 500 square feet or less where the water demand factor is not increasing). For instance, a 500 square foot addition to an existing office would result in 0.03 AFY of new water use. Before determining an acceptable maximum-size addition under this exemption, we would need to quantify what constitutes “significant” additional water demand.
- Revisions to approved building permits where the revision does not result in water demand greater than the approved project.
- Tea Fire rebuilds where the site has been unoccupied long enough that the parcel is considered vacant from a land use perspective.

Staff has reviewed all of the pending and approved projects and found that these proposed exemptions would total 21.12 AFY³ (16%) of the projected 133.48 AFY of new water demand for all projects in the pipeline. Assuming the average annual net new water use from development is 28-40 AFY, if the suspension on building permits for projects with net new water use was implemented with the above exemptions, staff estimates that approximately 4.5-6.5 AFY of new development would still be allowed (assumes 16% of new water use would fall into one of the exemption categories). This represents 0.04 - 0.06% of the annual drought water demand.

The Council would also need to determine if the restriction would apply to building permit applications that have already been submitted but have not yet been issued. If the restriction becomes effective when the Ordinance goes into effect (rather than retroactively), then staff would anticipate a rush of applicants submitting for building permits prior to that effective date. This would reduce the amount of water demand savings achieved by the development restriction. There would also be pressure to allow applicants to submit for building permits prior to receiving final design approvals.

If the City Council decides to implement these restrictions, staff would recommend that the restrictions apply to out-of-City water customers as well, through the process of issuing Water Service Commitment letters.

D. ADDITIONAL/ALTERNATIVE OPTIONS

Building Division Regulations

Staff has also considered development regulations that could further reduce the water demand of existing and new development. Some of these considerations included mandatory graywater systems for single-family residences, requiring fixture retrofits at point of sale, formally adopting Appendix L of the Building Code (Sustainable Practices), reduced building permit fees for fixture retrofits, and going beyond the existing requirements for plumbing efficiency.

Many of these items are already being considered by the State for adoption over the next several years.

Staff is not recommending that any of these items be adopted at this time due to potentially significant increases in construction costs, net benefit in terms of water conservation quantities, and the timeline required for City implementation would be long and may not be in place much sooner than the state's implementation timeline.

Zoning Regulations

Planning staff is also considering a Zoning Ordinance Amendment to allow rain barrels to encroach into the required interior/rear setbacks, distance between main buildings, and open yard/open space. Staff anticipates that maximum encroachment and height limits would be established (e.g. tank shall be no closer than three feet to the property line, shall occupy no more than 1% of the required open yard, maximum height shall be six feet) to minimize impacts to neighbors and residents.

³ 21.12 AFY is comprised of 20.96 AFY for affordable housing projects and 0.16 AFY for small projects (projects that generate less than 0.03 AFY).

Water Use Regulations

The Water Division is working with the Water Commission on additional water use regulations such as no watering of turf and restrictions on the method of irrigation for non-turf landscaping, as well as restrictions on construction of new private groundwater wells for City water customers. The intent is that these water use regulations would be considered by the City Council at the same time potential development restrictions are considered. It is expected that the most significant savings would come from water use regulations, with reductions from lawn watering regulations in the range of 630 AFY to 1,100 AFY.

E. SUMMARY

	Estimated Water Savings	Percent of Annual Drought Water Supply
Voluntary Landscape Deferral	?	?
Mandatory Landscape Deferral	3.0 - 4.4 AFY	0.02 - 0.038%
Suspension of Permits For Pools	1.8 AFY	0.015%
Suspension of Permits For New Development	28 - 40 AFY	0.24 - 0.34%
Water Use Regulations	630 AFY	5.4%

In reviewing this summary chart, it is important to note that the savings are not cumulative. For example, if a suspension on building permits for new development with net new water use is implemented, the amount of water saved from a mandatory landscape deferral would be significantly reduced. However, savings from water use regulations would be in addition to any savings from development restrictions.

Exhibits:

- A. Landscape Deferral Process
- B. Pending, Approved and Building Permit Issued Project List, as of January 26, 2015
- C. Water Demand Factors

DRAFT Landscape Deferral Process

February 12, 2015

ADMINISTRATIVE PROCEDURES FOR POSTPONING THE INSTALLATION OF LANDSCAPE PLANT MATERIALS REQUIRED AS PART OF NEW CONSTRUCTION PROJECTS DURING STAGE TWO DROUGHT CONDITIONS

A. PURPOSE AND SCOPE

The purpose of these guidelines is to establish the criteria and procedures for postponing the installation of certain plantings in new construction projects in order to conserve water during the drought. These guidelines also outline required exemptions from the postponement requirements.

B. RULE

For the duration of the Stage Two Drought Emergency, all projects with approved landscape plans which have not received Certificates of Occupancy are directed by the Community Development Director of the City of Santa Barbara to postpone the installation of certain landscape plant portions of said design review-approved landscape plan. An interim landscape plan shall be installed consistent with the direction outlined below.

C. INTERIM LANDSCAPE REQUIREMENTS

All applicants must still comply with the following components of the landscape plan, as approved by the applicable design review board:

- All hardscape such as enhanced paving, walkways, driveways, outdoor structures, trellis, pergolas, fountains, etc. must be installed as shown on the originally-approved landscape plan. Installation of pools shall be governed by separate Council action. If there is no ban on their installation, then they can be installed, but would not be required to be installed.
- All underground irrigation systems must be installed (refer to additional information below).
- All grading up to finish grade must be completed.
- All landscaping, detention features, etc. required as part of the project's approved Storm Water Management Plan must be constructed and installed.

- All landscape plantings specifically required as a condition of approval by the City Council, Planning Commission, Staff Hearing Officer or design-review board must be installed.
- All landscape plantings required as part of a mitigation measure in accordance with an adopted Mitigated Negative Declaration or Environmental Impact Report must be installed.
- All landscape plantings required as part of a restoration plan must be installed.
- All relocated trees and shrubs.
- Any plantings specifically required to address landslide threat or for erosion control purposes shall be installed.

Interim ground covers are required for areas to be planted at a later date. Appropriate ground covers include mulching, such as bark or tree chipping, or rock ground covers, such as decomposed granite or gravel.

Irrigation – Underground irrigation systems will require a valve and the system must be shut off unless needed for maintenance of plants required to be installed as part of the interim landscape plan. The customer can install an irrigation controller but it cannot be connected to the irrigation system (to avoid it turning on), unless necessary for maintenance of plants required to be installed as part of the interim landscape plan. Above ground irrigation systems (e.g. drip) are not allowed except in accordance with an approved irrigation plan to maintain plants required to be installed as part of the interim landscape plan.

D. PROCEDURES

1. Planting Postponement

- a. Projects under construction: Projects presently under construction shall submit a copy of the design-review-approved landscape plan delineating which plants and areas shall be planted and which plants and areas shall be postponed. The Building Inspector shall verify compliance with these Guidelines during periodic inspections of projects presently under construction.
- b. Approved Projects that do not have building permits: Projects that have final design-review approval but have not yet received building permits shall submit, at the time of building permit application, a design review-approved landscape plan that clearly identifies a schedule of plants and delineates which areas will be

planted and which areas will be postponed. Planted areas shall comply with the criteria of these Guidelines.

- c. Projects that do not have design review approval: Projects that have not received final approval for the landscape plan from the applicable design review board shall submit said plan with plants and areas to be planted and areas to be postponed clearly delineated. Interim treatment of non-landscaped areas shall also be shown on this landscape plan.
- d. Enforcement Cases: Projects that originate due to enforcement of approved landscape plans or other landscape-related enforcement, shall submit any required plans/information in order to obtain necessary approvals. Installation of new/replacement landscaping would be deferred consistent with rules for new projects.

2. Installation of Approved Landscaping

Once the City Council declares that the Drought is over and rescinds the Postponement of Landscape Installation, property owners that were subject to the Postponement of Landscape Installation must install all approved landscaping within six months. All landscape postponements will be tracked by the Community Development Department. Failure to install required landscaping within the six month timeline will result in enforcement action.

**MST Cases with Pending Status between 1/1/1990 and 1/26/2015,
and Associated Water Demand**

			<u>H₂O Demand</u>
Mixed Use			
MST2014-00079	2720 DE LA VINA ST Application Received	M-NEW MIXED USE 2/24/2014	1.00
MST2014-00115	121 E MASON ST Application Received	MIXED USE 3/17/2014	19.53
MST2014-00410	927 HALEY ST Application Received	MF-NEW UNIT 8/22/2014	0.16
MST2014-00503	1023 CACIQUE ST A Application Received	MF AUD 2 NEW UNITS 10/14/2014	0.32
MST2014-00544	2217 OAK PARK LN Application Received	MF-NEW UNIT 11/3/2014	0.16
MST2014-00546	1623 DE LA VINA ST Application Received	MFR-3 NEW AUD UNITS 11/4/2014	0.22
MST2014-00567	312 RANCHERIA ST Application Received	MF-7 NEW AUD UNITS 11/11/2014	1.12
MST2014-00639	133 S SALINAS ST Application Received	MIXED USE 12/23/2014	0.04
			Subtotal of Water Demand for Mixed Use: 22.55

Non-residential

MST2006-00509	1298 LAS POSITAS RD Application Received	C-PARK CONSTRUCTION 8/28/2006	1.43
MST2012-00069	115 E GUTIERREZ ST Application Received	C-AS-BUILT BUILDING 2/22/2012	0.13

**MST Cases with Pending Status between 1/1/1990 and 1/26/2015,
and Associated Water Demand**

			<u>H₂O Demand</u>
MST2012-00451	301 S HOPE AVE Application Received	C-ADDN & ALTS 11/14/2012	0.50
MST2013-00080	632 E CANON PERDIDO ST Application Received	C-ADDITION 2/27/2013	1.07
MST2013-00141	1298 LAS POSITAS RD Application Received	C-TENNIS FACILITY 4/11/2013	0.45
MST2013-00264	350 CHAPALA ST B Application Received	C-ALTERATION 6/25/2013	0.10
MST2013-00309	134 S MILPAS ST Application Received	C-ADDITION 7/25/2013	0.08
MST2013-00368	130 S HOPE AVE Application Received	C- RECYCLING 9/6/2013	0.02
MST2014-00070	22 ANACAPA ST Application Received	C-ADDITION 2/18/2014	0.24
MST2014-00169	328 W MONTECITO ST Application Received	C-NEW BUILDING 4/14/2014	0.21
MST2014-00357	111 N MILPAS ST Application Received	C-ALT 7/25/2014	0.65
MST2014-00375	121 E MASON ST Application Received	C-NEW 7/31/2014	0.24
MST2014-00390	713 SANTA BARBARA ST Application Received	C-ADDITION 8/11/2014	0.01
MST2014-00414	304 E HALEY ST Application Received	C-NEW 8/25/2014	0.06
		Subtotal of Water Demand for Non-residential:	5.19
 Residential			
MST2002-00214	1837 1/2 EL CAMINO DE LA LUZ Application Received	R-NEW RESIDENCE 3/29/2002	0.42
MST2003-00793	1235 VERONICA SPRINGS RD Application Received	R-NEW UNITS 11/5/2003	19.36
MST2006-00736	1400 ROGERS CT Application Received	R-SUBDIVISION & REZONE 12/19/2006	0.49
MST2007-00533	1124 CHINO ST Application Received	R-CONDO CONV/NEW UNIT 10/18/2007	0.12

**MST Cases with Pending Status between 1/1/1990 and 1/26/2015,
and Associated Water Demand**

			<u>H₂O Demand</u>
MST2008-00091	601 SAN PASCUAL ST Application Received	R-NEW UNIT 2/25/2008	0.16
MST2008-00527	1480 LOU DILLON (PARCEL B) Application Received	R-NEW UNIT 11/7/2008	0.95
MST2010-00265	309 E CANON PERDIDO ST Application Received	R-DEMO SFR/REBUILD DUPLEX 9/1/2010	0.06
MST2011-00446	1925 EL CAMINO DE LA LUZ Application Received	R-SFR 12/5/2011	0.42
MST2012-00007	940 ALSTON RD Application Received	R-NEW 1/5/2012	0.95
MST2013-00019	601 SAN PASCUAL ST Application Received	R- NEW UNITS 1/10/2013	0.32
MST2013-00034	119 S ALISOS ST Application Received	R-TWO NEW RESIDENTIAL UNITS 1/22/2013	0.32
MST2013-00358	515 RED ROSE LANE Application Received	R-ADDITIONS 8/29/2013	0.16
MST2013-00419	2334 DE LA VINA ST Application Received	R-3 CONDOS 10/7/2013	0.48
MST2013-00504	3626 SAN REMO DR Application Received	R-NEW HOUSE 12/2/2013	0.42
MST2013-00506	3626 SAN REMO DR Application Received	R-NEW HOUSE 12/2/2013	0.42
MST2014-00051	1120 & 1122 INDIO MUERTO ST Application Received	R-MULTI-FAMILY 2/7/2014	1.44
MST2014-00142	251 S HOPE AVE Application Received	R-90 UNITS 4/1/2014	14.56
MST2014-00418	2405 STATE ST Application Received	R-1 UNIT 8/27/2014	0.42
MST2014-00422	601 ALAMEDA PADRE SERRA Application Received	R-NEW UNIT 8/27/2014	0.16
MST2014-00547	433 ALAMEDA PADRE SERRA Application Received	R- NEW UNITS 11/4/2014	0.06

**MST Cases with Pending Status between 1/1/1990 and 1/26/2015,
and Associated Water Demand**

			<u>H₂O Demand</u>
MST2014-00569	1320 OLIVE ST Application Received	R-NEW 11/12/2014	0.32
MST2014-00149	511 BROSIAN WAY Appealed to City Council	R-NEW SFR 1/27/2015	0.95
		Subtotal of Water Demand for Residential:	42.96

TOTAL Water Demand – ~~Approved~~ Projects **70.70 AFY**
Pending

**MST Cases with Approved Status between 1/1/1990 and 1/26/2015,
and Associated Water Demand**

Mixed Use				<u>H₂O Demand</u>
MST2004-00132	1829	STATE ST	M-MIXED USE DEVELOPMENT	0.79
PC-Time Extension APVD			3/4/2014 FYI	
MST2004-00493	1298	COAST VILLAGE RD	M-MIXED USE	1.64
MST2005-00088	517	CHAPALA ST	M-NEW MIXED USE PROJECT	0.98
Level 3 SCD			8/25/2014 APVD	
MST2005-00126	117	W DE LA GUERRA ST	M-NEW MIXED-USE BUILDING	1.22
MST2005-00543	416	ANACAPA ST	M-NEW CONDOS	0.79
SHO-Time Extension APVD			10/17/2013 APVD	
MST2005-00667	817	N MILPAS ST	M-MIXED USE	0.77
Per AB 116, the Tentative Map is extended until 3-15-16.			10/3/2014 READ	
MST2006-00129	800	SANTA BARBARA ST	M-NEW	1.71
PC-Time Extension APVD			3/14/2012 APVD	
MST2006-00224	1025	SANTA BARBARA ST	M-MIXED-USE	2.40
Per State extensions, the Tentative Map expires 12-20-16			1/14/2015 READ	
MST2006-00510	803	N MILPAS ST	M-NEW	1.45
MST2006-00682	15	S HOPE AVE	M-MIXED-USE DEVT	1.77
PC-Time Extension APVD			5/19/2014 APVD	
MST2007-00092	540	W PUEBLO ST	M-MIXED USE	6.09
SCD Approved			9/18/2014 APVD	
MST2007-00400	825	DE LA VINA ST	M-NEW RES & COM CONDOS	1.15
SHO-Time Extension Requested			3/23/2011 APVD	
MST2007-00559	617	BRADBURY AVE	M-MIXED USE	0.17
MST2008-00322	412	ANACAPA ST	M-TSM, MIXED-USE	0.93
ABR-Consent (Final Review)			2/18/2014 APVD	
MST2008-00362	710	ANACAPA ST	M-MIXED USE	0.38
HLC-Resubmittal Received			5/23/2011 RECD	
MST2012-00422	3880	STATE ST	M-MIXED-USE	1.84
ABR-Project Design Hearing			1/21/2014 APVD	

**MST Cases with Approved Status between 1/1/1990 and 1/26/2015,
and Associated Water Demand**

				<u>H₂O Demand</u>
MST2012-00443	3714	STATE ST	M-MIXED USE	-10.77
PC-Approved			4/3/2014 APVD	
MST2013-00169	1330	CHAPALA ST	M-MIXED USE	5.34
PC-Processing CC&R's			1/5/2015 PROC	
MST2014-00010	706 E	HALEY ST	MIXED-USE ALTS	0.01
ABR-Consent (Final Review)			5/27/2014 APVD	
MST2014-00220	604 E	COTA ST	MIXED-USE	4.02
ABR-Project Design Hearing			11/24/2014 APVD	
Subtotal of Water Demand for Mixed Use:				22.68
 Non-residential				
MST2005-00831	920	SUMMIT RD	C-GOLF COURSE ALTS	0.27
Level 4 SCD			11/25/2014 APVD	
MST2006-00758	101 E	VICTORIA ST	C-NEW	0.33
Per State extensions, the tentative map expires 12-23-17.			APVD	
MST2009-00119	125	STATE ST	C-NEW	2.84
PC-CC&R's Recorded			1/22/2015 DONE	
MST2010-00220	17 W	MONTECITO ST	C-ADDN/ALTS/ENF	0.01
SHO-Approved			7/13/2011 APVD	
MST2011-00171	101	STATE ST	C-NEW BUILDING	4.30
PC-CC&R's Recorded			2/7/2014 FYI	
MST2012-00156	635	OLIVE ST	C-MIXED USE	0.24
ABR approved			10/15/2012 APVD	
MST2012-00248	224 S	MILPAS ST	C-ALTERATIONS	-0.03
ABR Approved review after final			1/12/2015 APVD	
MST2013-00026	1013	BATH ST	C/A-ALTERATION	0.02
ABR-After Final (Staff Apvl)			9/25/2014 APVD	
MST2013-00232	116, 120, 122	SANTA BARBARA ST	C-ALTERATION	-0.02
ABR-F.A. (Staff Approval)			11/26/2013 APVD	
MST2013-00237	1130	STATE ST	C-ADDN & ALTS	1.53
HLC-In-Progress Review Hearing			1/14/2015 CONT	
MST2013-00388	520 E	YANONALI ST	C-REPLACEMENT OF FACILITY	-0.18
ABR-Final Review Hearing			1/21/2014 APVD	

**MST Cases with Approved Status between 1/1/1990 and 1/26/2015,
and Associated Water Demand**

				<u>H₂O Demand</u>
MST2013-00390	1017 & 1017 A STATE STREET	C-ADDN/ALT		0.01
	HLC-F.A. (staff approval)	11/24/2014	APVD	
MST2013-00446	135 E ORTEGA ST	C-ADDITION		0.01
	HLC-Consent (After Final)	3/12/2014	APVD	
MST2013-00526	205 ANACAPA ST	C-ALT		0.02
	Coastal Exempt APVD-No Oth Rev	11/11/2014	APVD	
MST2014-00068	414 N SALSIPUEDES ST	C-ALTERATION		-0.11
	ABR Consent – Final Approval	5/12/2014	APVD	
MST2014-00186	200 HELENA AVE	C-ALT		0.07
	ABR-Consent (After Final)	12/1/2014	APVD	
MST2014-00320	701 CHAPALA ST	C-ADDITION		0.02
	HLC – PDA and FA	11/19/2014	APVD	
MST2014-00437	915 STATE ST	C-DEMO & REBUILD		0.03
	HLC-Concept Review (New) - PH	9/24/2014	APVD	
MST97-00357	35 STATE ST	C-NEW BLDG		1.54
	HLC-F.A. (Staff Approval)	12/9/2014	APVD	
Subtotal of Water Demand for Non-residential:				10.90
 Residential				
MST2004-00725	124 LOS AGUAJES AVE	R-3 CONDOS		0.22
MST2005-00295	85 N LA CUMBRE RD	R-CONDOS		-0.16
	Per State extensions, tentative map expires 7-25-17		APVD	
MST2005-00442	420 E ANAPAMU ST	R-TWO NEW CONDOS		0.06
	Per State extensions, tentative map expires 1/31/18		APVD	
MST2005-00504	824 E CANON PERDIDO ST	R-4 UNIT CONDO		1.12
	Should be withdrawn – replacement project under construction			
MST2006-00318	222 W ALAMAR AVE	R-DEMO/CONDO, 3 UNITS		0.22
	PC approved	2/7/2008	APVD	
MST2006-00364	1236 SAN ANDRES ST	R-CONDOS		0.32
	CC denied appeal	7/22/2008	APVD	
MST2006-00421	927 OLIVE ST	R-CONDOS, 5 UNITS		0.28
	ABR-Consent (Referred by FB)	2/25/2008	CONT	

**MST Cases with Approved Status between 1/1/1990 and 1/26/2015,
and Associated Water Demand**

				<u>H₂O Demand</u>
MST2006-00476	210 MEIGS RD	R-5LOT SUBDIVISION		2.10
	PC-Time Extension APVD	8/30/2013	FYI	
MST2006-00496	422 W PADRE ST	R-SFR		0.06
	ABR-Resubmittal Received	3/3/2010	RECD	
MST2006-00564	457 N HOPE	R-SUBDIVISION		3.78
	Oops! Still "A" Status	1/23/2014		
MST2007-00128	1030 CACIQUE ST	R-NEW UNIT		0.06
	ABR-Consent (After Final)	8/30/2010	APVD	
MST2007-00331	915 E ANAPAMU ST	R-MULTI-FAMILY RESIDENTIAL		1.66
	Time extension granted; project expires 4-19-15		APVD	
MST2007-00470	505 W LOS OLIVOS ST	R-CONDO CONV		0.92
	PC-Time Extension APVD	10/17/2013	FYI	
MST2007-00634	203 CHAPALA ST	RES-7 CONDOS		0.92
	PC-FYI/Research - project expires 6-1-16.	10/22/2014	FYI	
MST2008-00298	1210 E MASON ST	R-DUPLEX		0.06
	ABR-Preliminary Review Hearing	11/3/2008	APVD	
MST2008-00435	1712 ANACAPA ST (ORIGINAL	R-SUBDIV/MODS		0.84
	ABR-After Final (Staff Apvl)	10/29/2014	APVD	
MST2010-00074	31 S SALINAS ST	R-NEW UNIT AND GARAGE		0.33
	ABR-Consent (Final Review)	9/27/2010	APVD	
MST2010-00097	1812 SAN PASCUAL ST	R-NEW DUPLEX		0.16
	Oops! Still "A" Status	1/6/2015	DONE	
MST2010-00278	330 W CANON PERDIDO ST	R-NEW DUPLEX		0.06
	ABR Final Approval	2/14/2011	APVD	
MST2011-00007	23 WADE CT	R-NEW SFR/COASTAL EXCL		0.42
	Project has expired		EXPD	
MST2011-00267	108 ONTARE HILLS LN	R-NEW RESIDENCE		0.42
	SFDB-Project Design Hearing	4/22/2013	APVD	
MST2011-00296	612 W MISSION ST	R-ALTERATION		0.06
	ABR-Consent (Proj Des & Final)	10/10/2011	APVD	
MST2011-00426	517 W FIGUEROA ST	R-5 UNIT APARTMENT		0.96
	ABR-Time Ext. (Staff Apvl)	9/29/2014	APVD	

**MST Cases with Approved Status between 1/1/1990 and 1/26/2015,
and Associated Water Demand**

			<u>H₂O Demand</u>
MST2012-00054	1025 E COTA ST	R-2 NEW UNITS	0.06
	ABR-Concept Review (Continued)	6/25/2012 APVD	
MST2012-00332	128 ANACAPA ST	R-NEW CONDOS	0.32
	ABR-F.A. (Staff Approval)	6/10/2014 APVD	
MST2012-00362	415 ALAN RD	R-1 NEW HOUSE	0.42
	SFDB-Consent (Final Review)	3/18/2013 APVD	
MST2012-00442	1611 OLIVE ST	R-MULTI-RES NEW UNIT	0.16
	ABR-Consent (Final Review)	11/4/2013 APVD	
MST2013-00022	240 W ALAMAR AVE	R-NEW 4 UNITS	0.22
	ABR-Consent (Final Review)	11/17/2014 APVD	
MST2013-00045	1714 ANACAPA ST (LOT 2)	R-NEW HOUSE	0.42
	EXC-Zoning Exception Received	1/22/2015 RECD	
MST2013-00212	510 N SALSIPUEDES ST	R-MULTI FAMILY	6.40
	CC-ABR Appeal (Project APVD)	5/21/2014 DENY	
MST2013-00261	1810 SAN PASCUAL ST	R-DEMO AND REBUILT MFR	0.22
	ABR-Final Review Hearing	2/3/2014 APVD	
MST2013-00281	3435 MARINA DR	R-SFR	0.95
	SFDB-Resubmittal Received	1/20/2015 RECD	
MST2013-00377	1135 SAN PASCUAL ST	R-3 CONDOS	0.22
	SHO-Tentative SHO Hearing Date	10/1/2014 APVD	
MST2013-00406	296 SCHULTE LN	R-HOUSE	0.95
	SFDB-Consent (Final Review)	12/8/2014 APVD	
MST2013-00418	1003 SANTA BARBARA ST A	R-NEW UNIT	0.19
	HLC-Consent (Final Review)	12/3/2014 APVD	
MST2013-00456	810 E CANON PERDIDO ST A	R-NEW UNIT	0.16
	ABR-Consent (After Final)	12/15/2014 APVD	
MST2013-00505	3626 SAN REMO DR	R-NEW HOUSE	0.42
	SFDB-Resubmittal Received	12/11/2014 RCVD	
MST2013-00511	129 OLIVER RD	R-NEW RESIDENCE	0.42
	COASTAL-FYI/Research	7/22/2014 READ	
MST2014-00046	1146 NIRVANA RD	R-PSP & MODS	0.16
	SFDB-Consnt (Proj Des & Final)	6/30/2014 APVD	

**MST Cases with Approved Status between 1/1/1990 and 1/26/2015,
and Associated Water Demand**

				<u>H₂O Demand</u>
MST2014-00047	122 S VOLUNTARIO ST	R-2 NEW UNITS		0.32
ABR-Consent		6/2/2014	APVD	
MST2014-00091	2101 MOUNTAIN	R-PSP		0.16
SFDB-Consent (Proj Des & Final)		1/20/2015	APVD	
MST2014-00112	725 OLIVE ST	R-NEW RES. UNIT		0.06
ABR-Project Design & Final Hrg		1/20/2015	APVD	
MST2014-00197	1314 FERRELO RD	R-NEW RESIDENCE		0.42
SFDB-Resubmittal Received		10/22/2014	RECD	
MST2014-00200	1632 LA VISTA DEL OCEANO DR	R-NEW-SFR		0.42
SFDB-Reconsideration Hearing		1/12/2015	DONE	
MST2014-00297	1565 LA CORONILLA DR	R-NEW SFR		0.42
SFDB-Consent (Final Review)		9/22/2014	APVD	
MST2014-00312	3753 LINCOLN RD	R-NEW DWELLING		0.42
SFDB-Consent (Final Review)		1/26/2015	APVD	
MST97-00764	1224 HARBOR HILLS DR	R-LLA		0.42
PC- Hearing		4/21/2005	APVD	
Subtotal of Water Demand for Residential:				29.20
TOTAL Water Demand – Approved Projects				62.78 AFY

**MST Cases with Building Permit Issued between 1/1/1990
and 1/26/2015, and Associated Water Demand
(Occupancy Not Granted)**

			Date BP Issued	<u>H₂O Demand</u>
Mixed Use				
MST2002-00191	427 BATH ST Building Permit Issued	M-MIXED USE	7/20/2004	0.35
MST2003-00243	128 E CANON PERDIDO ST Building Permit Issued	MIXED-USE	3/9/2011	0.27
MST2004-00243	415 E DE LA GUERRA ST Building Permit Issued	M-NEW UNIT	11/9/2007	0.16
MST2004-00793	520 N SALSIPUEDES ST Building Permit Issued	M-NEW AUTO REPAIR	2/18/2005	0.11
MST2005-00439	819 GARDEN ST Building Permit Issued	MIXED-USE	7/23/2009	0.20
MST2011-00220	1255 COAST VILLAGE RD Building Permit Issued	MIXED USE	4/25/2013	0.97
MST2011-00310	225 E HALEY ST Building Permit Issued	M-MINOR ALTERATIONS	7/24/2013	0.18
MST2012-00048	901 OLIVE ST Building Permit Issued	MIXED USE-NEW RES UNITS	7/23/2013	3.04
MST2012-00277	720 DE LA VINA ST Building Permit Issued	M-NEW	11/11/2013	0.03
MST2013-00411	3885 STATE ST Building Permit Issued	M- NEW MIXED USE	8/8/2014	9.53
MST2013-00464	522 GARDEN ST Building Permit Issued	M-MIXED USE	11/17/2014	0.35
		Subtotal of Water Demand for Mixed Use:		15.19
Non-residential				
MST2006-00015	221 N NOPAL ST Building Permit Issued	C-ADDITION	8/24/2009	0.56
MST2007-00629	402 ORILLA DEL MAR Building Permit Issued	C-ADDITION/DPA	9/1/2009	0.13
MST2008-00401	28 W CABRILLO BLVD Building Permit Issued	C-NEW	4/7/2009	0.02
MST2009-00281	1816 STATE ST Building Permit Issued	C-ADDITION	3/11/2013	0.03

**MST Cases with Building Permit Issued between 1/1/1990 and
1/26/2015, and Associated Water Demand
(Occupancy Not Granted)**

			Date BP Issued	<u>H₂O Demand</u>
MST2009-00486	633 E CABRILLO BLVD Building Permit Issued	C-NON-RES ALT	4/9/2010	0.02
MST2009-00517	1150 SAN ROQUE RD Building Permit Issued	C-OZONE PLANT	7/26/2011	1.25
MST2009-00523	130 S HOPE AVE D-12A Building Permit Issued	C-STOREFRONT	6/1/2010	-0.05
MST2009-00551	1130 N MILPAS ST Building Permit Issued	C-BOX OFFICE	7/24/2013	0.13
MST2010-00015	428 E HALEY ST Building Permit Issued	C-DEMO & ALTERATION	4/25/2013	-0.04
MST2010-00026	1085 COAST VILLAGE RD Building Permit Issued	C-ADDITIONS	7/9/2014	0.03
MST2010-00033	15 E CABRILLO BLVD Building Permit Issued	C-MAJOR ALTERATIONS	12/8/2014	0.22
MST2010-00067	130 N CALLE CESAR CHAVEZ Building Permit Issued	C-ADDITION	1/10/2012	0.26
MST2010-00168	513 GARDEN ST Building Permit Issued	C-MIXED-USE	4/16/2014	1.60
MST2010-00390	121 STATE ST Building Permit Issued	C-ALTERATIONS	1/27/2012	-1.56
MST2011-00167	1936 STATE ST Building Permit Issued	C-DPA NEW NONRES	8/4/2014	0.38
MST2011-00317	215 PESETAS LN Building Permit Issued	C-MINOR ADDITION/ALTERATIONS	7/30/2012	0.02
MST2012-00131	17 W ORTEGA ST Building Permit Issued	C-ALTS	1/2/2013	-0.08
MST2012-00180	1321 ALAMEDA PADRE SERRA Building Permit Issued	C-MINOR ADDN/ALTS	8/20/2013	0.04
MST2013-00230	410 N QUARANTINA ST Building Permit Issued	C- ALTERATIONS	12/9/2013	0.01
MST2013-00378	1013 STATE ST Building Permit Issued	C-ADDITION	11/12/2013	0.01

**MST Cases with BP Issued between 1/1/1990 and 1/26/2015,
and Associated Water Demand
(Occupancy Not Granted)**

			Date BP Issued	<u>H₂O Demand</u>
MST2013-00386	7 N NOPAL ST Building Permit Issued	C-ALTERATIONS	12/2/2013	0.04
MST2013-00397	608 & 614 CHAPALA STREET Building Permit Issued	C-ADDN	9/8/2014	0.32
MST2013-00402	3525 STATE ST Building Permit Issued	C-ADDITION	2/5/2014	0.01
MST2013-00478	515 STATE ST Building Permit Issued	C-ALT	5/21/2014	-0.05
MST2014-00042	412 E HALEY ST Building Permit Issued	C-ALTS	9/11/2014	0.06
MST2014-00072	525 STATE ST Building Permit Issued	COMM	6/18/2014	0.03
MST2014-00084	419 STATE ST Building Permit Issued	C-ALTERATIONS	8/11/2014	-0.20
MST2014-00134	100 FREDERIC LOPEZ RD Building Permit Issued	C-ALT	5/29/2014	0.02
MST92-00653	21 W VICTORIA ST BUILDING PERMIT ISSUED	C-EXT CHG RESTAURANT	10/9/1992	0.05
MST95-00175	433 E CABRILLO Building Permit Issued	C-DEVELOPMENT AGREM'T	5/20/2008	25.72
Subtotal of Water Demand for Non-residential:				28.98
Residential				
MST1999-01043	1576 LA VISTA DEL OCEANO DR Building Permit Issued	R-NEW RESIDENCE	12/9/2010	0.42
MST2002-00242	1819 DE LA VINA ST Building Permit Issued	R- 4 NEW UNITS	11/9/2005	0.38
MST2003-00227	1701- 1704; 1706 & 1708 LA VISTA DE Building Permit Issued	R-SIX LOT SUBDIVISION	5/7/2007	5.70
MST2003-00338	1533 W VALERIO ST Building Permit Issued	R-2-LOT SUBDIVISION	1/5/2011	0.95
MST2003-00652	1575 LA VISTA DEL OCEANO DR Building Permit Issued	R-NEW HOUSE	12/9/2010	0.42

**MST Cases with Building Permit Issued between 1/1/1990
and 1/26/2015, and Associated Water Demand
(Occupancy Not Granted)**

			Date BP Issued	<u>H₂O Demand</u>
MST2004-00407	316 S CANADA ST Building Permit Issued	R-NEW UNIT	10/12/2005	0.06
MST2004-00613	415 W DE LA GUERRA ST Building Permit Issued	R-DUPLEX	6/20/2007	0.06
MST2004-00858	15 S ALISOS ST Building Permit Issued	R-NEW UNITS	6/19/2006	0.32
MST2005-00082	1303 FERRELO RD - LOT 28 Building Permit Issued	R-NEW RESIDENCE	1/30/2009	0.42
MST2005-00115	2032 MODOC RD Building Permit Issued	R-NEW UNIT	11/14/2005	0.16
MST2005-00344	910 CAMINO VIEJO RD Building Permit Issued	R-NEW RESIDENCE	9/25/2013	0.95
MST2005-00456	2108 LAS CANOAS RD Building Permit Issued	R-NEW SFR	7/5/2007	0.95
MST2006-00415	231 S ALISOS ST Building Permit Issued	R-NEW	1/16/2008	0.06
MST2007-00345	505 WENTWORTH AVE Building Permit Issued	R-3 NEW CONDOMINIUMS	4/8/2014	0.48
MST2007-00644	1478 LOU DILLON LN Building Permit Issued	R-NEW SFR	5/21/2013	0.95
MST2008-00011	826 W PEDREGOSA ST Building Permit Issued	R- NEW UNIT	8/25/2008	0.16
MST2008-00069	1021 ALPHONSE ST Building Permit Issued	R-2 UNITS	11/19/2008	0.16
MST2009-00149	960 W MOUNTAIN DR Building Permit Issued	R-NEW SFR	5/24/2011	0.95
MST2009-00558	1126 DEL MAR AVE Building Permit Issued	R-SECONDARY DWELLING UNIT	3/25/2011	0.16
MST2010-00186	1233 MISSION RIDGE RD Building Permit Issued	R- 2 SFR	5/6/2013	0.26
MST2010-00272	4119 SAN MARTIN WAY Building Permit Issued	R-NEW SFR	8/31/2011	0.26

**MST Cases with Building Permit Issued between 1/1/1990
and 1/26/2015, and Associated Water Demand
(Occupancy Not Granted)**

			Date BP Issued	<u>H₂O Demand</u>
MST2010-00378	1216 E MONTECITO ST Building Permit Issued	R-DEMO/REBUILD SFR	8/22/2013	0.16
MST2011-00010	101 N SALINAS ST Building Permit Issued	R-ADDITIONAL UNIT	2/19/2014	0.16
MST2011-00034	1226 E MONTECITO ST Building Permit Issued	R-DUPLEX	10/25/2011	0.16
MST2011-00261	103 ONTARE HILLS LN Building Permit Issued	R-NEW RESIDENCE	4/10/2014	0.42
MST2012-00003	1482 LOU DILLON Building Permit Issued	R-SFR	5/21/2014	0.95
MST2012-00005	1301 W MOUNTAIN DR Building Permit Issued	R-NEW RESIDENCE	12/18/2014	0.16
MST2012-00030	1291 W MOUNTAIN DR Building Permit Issued	R-NEW DWELLING	4/30/2013	0.95
MST2012-00070	2204 PARKWAY DR Building Permit Issued	R-NEW UNIT	6/11/2013	0.16
MST2012-00205	1642 CALLE CANON Building Permit Issued	R-NEW	9/6/2013	0.42
MST2012-00385	836 BATH ST Building Permit Issued	R-NEW UNIT	12/9/2014	0.16
MST2012-00447	213 W COTA ST Building Permit Issued	R-NEW 3 UNIT MULTI-FAMILY	10/28/2014	0.06
MST2013-00047	965 W MOUNTAIN DR Building Permit Issued	R-CONVERSION	6/17/2014	0.42
MST2013-00197	1123 MANITOU RD Building Permit Issued	R-NEW	3/6/2014	0.42
MST2013-00276	1727 SANTA BARBARA ST Building Permit Issued	R-SFR	5/22/2014	0.42
MST2014-00140	121 S VOLUNTARIO ST Building Permit Issued	R-NEW UNIT	12/1/2014	0.16
MST98-00706	1570 LA VISTA DEL OCEANO DR Building Permit Issued	R-ONE NEW UNIT	12/9/2010	0.42

**MST Cases with Building Permit Issued between 1/1/1990
and 1/26/2015, and Associated Water Demand
(Occupancy Not Granted)**

			Date BP Issued	<u>H₂O Demand</u>
MST99-00513	1568	LA VISTA DEL OCEANO DR Building Permit Issued	R-NEW SF RESIDENCE 12/16/2010	0.42
Subtotal of Water Demand for Residential:				20.25
TOTAL Water Demand – Building Permit Issued				64.42 AFY

Water Demand Factors¹

(All values include indoor and outdoor usage)

Land Use Category	2009 Study Values
Single Family - Small Lot size (< 7000 sq. ft.)	0.26 AFY per unit
Single Family - Medium Lot size (7000 sq. ft. to 1 acre)	0.42 AFY per unit
Single Family - Large Lot size (> 1 acre)	0.95 AFY per unit
Multi-Family Residential ² (Aggregate) – includes duplex, triplex and condos	0.16 AFY per unit
Service Commercial ³	0.00017 AFY per sq. ft.
Retail ⁴ Large (>20,000 sq. ft.)	0.000068 AFY per sq. ft.
Small (< 20,000 sq. ft.)	0.00011 AFY per sq. ft.
Office	0.00006 AFY per sq. ft.
Industrial ⁵	0.00008 AFY per sq. ft.
Institutional ⁶	0.00017 AFY per sq. ft.
Hotel/Motel ⁷	0.13 AFY per room
Hotel/Motel with Restaurant	0.20 AFY per room

¹ Refer to Appendix B of the Water Demand Factor Update Report, October 2009, for details on uses included within each land use category.

² Also includes nursing homes, convalescent hospitals, mobile homes.

³ Includes restaurants, bars, auto service stations, banks, theatres and health services.

⁴ Includes laundromats, shopping malls, grocery stores, and consumer goods.

⁵ Includes manufacturing, warehousing, and construction related businesses.

⁶ Includes educational services, hospitals, government buildings and agencies, public safety, and religious institutions.

⁷ Includes bed and breakfast inns.



City of Santa Barbara

Planning Division

PLANNING COMMISSION MINUTES

February 12, 2015

CALL TO ORDER:

Chair Thompson called the meeting to order at 1:00 P.M.

I. ROLL CALL

Chair Addison Thompson, Vice-Chair John P. Campanella, Commissioners Jay D. Higgins, Mike Jordan, Sheila Lodge, June Pujo, and Deborah L. Schwartz.

STAFF PRESENT:

Bettie Weiss, City Planner
Renee Brooke, Senior Planner
Ariel Calonne, City Attorney
Bill Ferguson, Water Resources Supervisor
Allison De Busk, Project Planner
Madeline Ward, Acting Water Conservation Coordinator
Julie Rodriguez, Planning Commission Secretary

II. PRELIMINARY MATTERS:

A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

None.

B. Announcements and appeals.

1. Ms. Brooke announced that the Planning Commission's decision on 2559 Puesta del Sol that was appealed to City Council will be heard on March 24, 2015.

2. Chair Thompson announced that Senior Planner Renee Brooke has been selected as City Planner to replace retiring City Planner Bettie Weiss.

C. Comments from members of the public pertaining to items not on this agenda.

Chair Thompson opened the public hearing at 1:01 P.M. and, with no one wishing to speak, closed the hearing.

III. RECOMMENDATION TO CITY COUNCIL:

ACTUAL TIME: 1:01 P.M.

CONSIDERATION OF POTENTIAL DROUGHT-RELATED DEVELOPMENT RESTRICTIONS

The City's Water Shortage Contingency Plan states that the City Council should consider regulations of water use and suspension of permit approvals during Stage Two and Stage Three Drought Conditions. The City is currently in a Stage Two Drought Condition, with some water use regulations in effect that restrict how water can be used during the drought.

A Staff team has been considering possible development restrictions in order to appropriately manage a critical water shortage while balancing possible effects on the local economy. These restrictions, as well as additional water use regulations, could be implemented by City Council as part of a phased approach. The first phase could include a voluntary landscape deferral program, so that anyone interested in deferring landscape installation could do so, but it would not be mandatory. The next phase could include mandatory landscape deferral, suspension of building permits for new pools, and suspension of building permits for projects that result in net new water use (generally, an increase in number of units or commercial floor area). These actions could be implemented as part of a Stage Three Drought declaration, or could be further phased, depending on the drought condition at that time.

The purpose of the public hearing was to allow the Planning Commission and the public an opportunity to review the proposed development restrictions and provide Staff and the City Council with feedback. A staff report outlining the proposed restrictions is available for review beginning February 5, 2015 at www.SantaBarbaraCA.gov/PC. **No formal action was taken at this hearing.**

Contact: Allison De Busk, Project Planner

Email: ADeBusk@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 4552

Allison De Busk, Project Planner, gave the Staff presentation. Bettie Weiss, City Planner; Bill Ferguson, Water Resources Supervisor; and Madeline Ward, Acting Water Conservation Coordinator were available to answer any questions.

Chair Thompson opened the public hearing at 1:14 P.M.

The following people commented on the proposed restrictions:

1. Steve Fort, Suzanne Elledge Planning and Permitting, submitted written comments supporting the proposed landscape deferral measure and had questions regarding the details of the potential development restrictions, noting that the water savings are minimal; stated that the restrictions should not apply to projects already deemed complete or approved.

2. Glen Mueller, 420 E. Anapamu, noted that development restrictions would be a huge cost to developers with little net benefit to water resources; had concerns and asked for a proposal to suspend restrictions on projects with entitlements; suggested notifying pending projects of the potential restrictions so that they can make an informed financial decision.
3. Bill Medel, Montecito Country Club, submitted written comments that were read into the record. Requested that the proposed suspension of building permits not apply to the Montecito Country Club and that the entire project, including the modified pool, be allowed to proceed.
4. John Schuck recommended that approved projects be allowed to move forward and not suspend their building permits. Once a project is approved, many events occur (purchasing, financing, final drawings) that would be impacted. It takes time to build projects, so we're talking about very little water over a three year period.
5. Greg Reitz, 3885 State Street, is beginning construction on an upper State Street project and commented that modern buildings are very water efficient, and AUD projects especially have relatively low water usage because they have less area for landscaping. Supports water efficiency and offered to make his project a model for others.

With no one else wishing to speak, the public hearing was closed at 1:30 P.M.

Commissioner Schwartz left the dais at 2:31 P.M. and returned at 2:33 P.M.

Commissioners were asked to comment on four main topics:

Voluntary and Mandatory Landscape Deferral

- Some Commissioners stated that we are beyond the point of a voluntary deferral of landscape installation. The Majority of the Commission could support mandatory deferral of landscape installation.
- Commissioner Jordan preferred to have a water use threshold for those subject to the mandatory deferral. He would like trees to be exempt from the landscape deferral but favors deferral of ground shrubbery.
- Commissioners Schwartz and Pujo expressed concern about staff resources to monitor and follow-up on the landscape deferrals. Commissioner Pujo suggested bonding as a means to ensure future compliance.
- Commissioner Pujo wants to be sure that new landscape plans receive a higher level of scrutiny to assure that there is no new exterior water use applied versus overall development water use except for what is required by the storm water quality plan.
- Commissioner Lodge noted the potential conflict with asking people to replace existing landscaping with water efficient landscaping, and requiring a landscape installation deferral.

Suspension of Building Permits for New Pools

- Many Commissioners stated that restrictions on pools would result in a small savings and to restrict would be more a more symbolic gesture.

- Commissioner Schwartz considers pools a luxury, and even though they may not represent a quantifiable savings, they convey an inequity in water use.
- Commissioners Schwartz and Pujo noted that a deferral would make the treatment of new pools consistent with that of existing pools.
- Commissioners Pujo and Thompson would like to see all pools required to have a cover to reduce evaporation, and closed when not in use.
- If pool restrictions are enacted, Commissioner Pujo would like to see fountains and open ponds restricted as well.
- Commissioner Lodge reflected on the prior drought and the greater severity of this drought and could support pool restrictions in favor of any and all water savings, regardless of the amount saved.
- Commissioner Higgins could support a restriction on pools, with the exception of institutional pools, commercial and hotel pools, and public pools.

Suspension of Building Permits for Projects With Net New Water Use

- The majority of the Commission does not support a suspension of permits for projects with net new water use.
- Commissioners expressed the potential impact on the economy and the potential to halt projects that are already in progress. Commissioner Higgins added that even when projects appear inactive, there is a lot of behind-the-scenes work and expense that is taking place.
- Commissioners Higgins and Thompson concurred that if a suspension were to be enacted, the public needed to have early awareness of any suspension.
- Commissioner Schwartz was concerned that enactment of a suspension at the building permit submittal stage would be too late.
- If enacted, Commissioners Schwartz and Lodge would like to have high density or priority overlay AUD projects included in the exemption list.
- Commissioner Schwartz could not support any restrictions that would be effective retroactively.
- While Commissioner Pujo does not see this as a workable solution, she could support suspending building permits for projects that have not yet come into the system and that also have a substantial unmitigable CEQA impact related to water.
- Citing the severity of this drought, Commissioner Lodge could support suspension of permits for projects that have not yet received a building permit.
- Commissioner Campanella pointed out that new project development helps exemplify for the public what can be done in terms of water conservation and serves as a model for others in retrofitting, use of low-flow toilets, on-demand water heating, etc.
- Commissioner Campanella could not support new development restrictions and showed a PowerPoint slide to illustrate why a mix of new development was needed for social, environmental, and economic reasons.
- If City Council were to enact any suspensions, Commissioner Thompson could not support stopping any projects that are already in the process, even if they have not yet received a building permit.

- Commissioner Thompson would want any projects that have gone through an EIR process and been shown to have no significant impact or a mitigated impact not to be restricted.
- Many Commissioners expressed a phased approach to any restrictions, if enacted.
- Commissioner Thompson suggested that any exemption for Tea Fire rebuilds only apply to those proposed by residents who lost homes and not speculative builders.

Zoning Ordinance Amendments to Support Water Conservation

- The majority of the Commission could support zoning changes that would allow rain barrels to encroach into interior/rear setbacks.
- Commissioner Jordan suggested that the language not be limited to water barrels and include water tanks.
- Commissioner Jordan noted that the Storm Water Management Plan only looks at keeping water from running off property, and suggested that it should be looked at closer to see if water can be retained and put to other uses, such as landscaping requirements.

General Comments

- Commissioner Jordan commented that the report is all about demand but not about supply and would like to see more conversation on a target supply number and how demand would fit into that number, such as what it would be like to live within 10,000 acre feet/year.
- Commissioner Jordan suggested determining what would define a large water user per project (such as 1-1.5 acre feet/year) and placing additional requirements on that project that would net enough for their water use, such as mandatory landscape deferrals, mandatory rain water use for landscaping, mandatory gray water use, etc.
- Many Commissioners expressed a preference for a phased approach to any restrictions, if enacted.
- Commissioner Jordan noted that the Storm Water Management Plan only looks at keeping water from running off property, and suggested that we make effort towards retention of water, which can be put to other uses, such as mandatory re-use for landscaping.
- Commissioner Jordan noted that eventually we will need to include water storage for new development in order to serve their landscape water needs.
- Commissioners Schwartz and Thompson commented that water use regulations are the real savings, and we should continue to incentivize water conservation in existing developments.

IV. ADMINISTRATIVE AGENDA

ACTUAL TIME: 4:01 P.M.

- D. Committee and Liaison Reports
 - 1. Staff Hearing Officer Liaison Report

- a. Commissioner Jordan reported on the Staff Hearing Officer meeting of February 4, 2015.
2. Other Committee and Liaison Reports
 - a. Commissioner Higgins reported on the Parks and Recreation Commission meeting of January 29, 2015.
 - b. Commissioner Higgins reported on Transportation and Circulation Committee meeting of February 12, 2015.
 - c. Commissioner Schwartz reported on Water Commission meeting of February 9, 2015.
 - d. Commissioner Campanella reported on the Downtown Parking Committee meeting of February 12, 2015.
 - e. Commissioner Thompson reported on the Single Family Design Board meeting of February 9, 2015.
 - f. Commissioner Thompson reported on the City Council Meeting held February 10, 2015.

V. ADJOURNMENT

Chair Thompson adjourned the meeting at 4:09 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary

Stage Three Drought Phased Response Options

The following water use regulations and development restrictions can be considered for implementation in a phased approach if the water supply situation worsens or the community does not meet conservation targets. These actions could be implemented as part of a Stage 3 Drought, or could be further phased, depending on the drought condition at that time.

<i>Phase</i>	<i>Water Use Regulations</i>	<i>Development Restrictions</i>
Initial	<p>Continue the City’s Stage 2 regulations, with modifications:</p> <ul style="list-style-type: none"> • Limit frequency of use of running water for preventive maintenance of buildings • Expand restriction on water use in fountains to include residential fountains in excess of 25 sq. ft. • Minor clarifications as necessary to align with new State regulations <p>New regulations to comply with updated State regulations:</p> <ul style="list-style-type: none"> • Prohibit irrigation during or within 48 hours after rainfall • Require towel/linen washing signage in hotels/motels • Limit the number of watering days per week (pending the outcome of the City’s request for exemption) 	<p>Voluntary deferral of installation of approved “aesthetic” landscaping. Aesthetic landscaping does not include landscaping that serves as:</p> <ul style="list-style-type: none"> • Storm Water Management • Required mitigation • Creek restoration • Tree relocations • Erosion control <p>Mandatory deferral of installation of any new plants that are not water wise, except if irrigated with non-potable water[±]</p> <p>Irrigation with potable water for new homes and buildings must only be drip or microspray systems</p> <p>No Building Permits for new swimming pools^{**}</p> <p>No Public Works permits for groundwater wells if property is connected to the City’s water system</p>
More Strict	<p>Further limit the number of watering days per week</p> <p>Limit irrigation methods to high efficiency irrigation systems</p> <p>Prohibit irrigation of turf, with limited exceptions</p>	<p>Mandatory deferral of installation of all approved “aesthetic” landscaping. Aesthetic landscaping does not include landscaping that serves as^{**}:</p> <ul style="list-style-type: none"> • Storm Water Management • Required mitigation • Creek restoration • Tree relocations • Erosion control

Most Strict	Outdoor watering by hand only or No outdoor water use	No Building Permits for projects with net new water use, with exceptions*: <ul style="list-style-type: none"> • 100% Affordable Housing • Essential Services (schools, libraries, Public Works projects) • Minor additions (e.g. non-residential additions of less than 500 sq ft.) No new water meters*
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*Coordinate with Santa Barbara County to apply City development restrictions to out-of-City properties served by City water

** Mandatory deferral of all landscaping would trigger a change in current Water Conservation rebate policies; no rebates would be offered for installation of new plants. Rebates would only be offered for other measures such as irrigation system retrofits, mulch, graywater, and pool covers.

‡Projects that submit an application for a Building Permit prior to the Stage Three Drought declaration would be exempt.



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015
TO: Mayor and Councilmembers
FROM: City Attorney's Office
Risk Management Division, Finance Department
SUBJECT: Conference With City Attorney – Pending Litigation

RECOMMENDATION:

That Council hold a closed session to consider pending litigation pursuant to subsection (d)(1) of section 54956.9 of the Government Code and take appropriate action as needed.

The pending litigation is *Alexander Cruz v. City of Santa Barbara*; WCAB Case numbers ADJ7371091 and ADJ7371090.

Scheduling: Duration, 20 minutes; anytime
Report: None anticipated

PREPARED BY: Ariel Calonne, City Attorney
Mark W. Howard, Risk Manager
SUBMITTED BY: Robert Samario, Finance Director/Acting Assistant City
Administrator
APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015
TO: Mayor and Councilmembers
FROM: City Attorney's Office
Risk Management Division, Finance Department
SUBJECT: Conference With City Attorney – Pending Litigation

RECOMMENDATION:

That Council hold a closed session to consider pending litigation pursuant to subsection (d)(1) of section 54956.9 of the Government Code and take appropriate action as needed.

The pending litigation is *Martin Valencia v. City of Santa Barbara*; WCAB Case number ADJ8407029.

Scheduling: Duration, 20 minutes; anytime
Report: None anticipated

PREPARED BY: Ariel Calonne, City Attorney
Mark W. Howard, Risk Manager
SUBMITTED BY: Robert Samario, Finance Director/Acting Assistant City
Administrator
APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015
TO: Mayor and Councilmembers
FROM: City Attorney's Office
Risk Management Division, Finance Department
SUBJECT: Conference With City Attorney – Pending Litigation

RECOMMENDATION:

That Council hold a closed session to consider pending litigation pursuant to subsection (d)(1) of section 54956.9 of the Government Code and take appropriate action as needed.

The pending litigation is *Mark Vierra v. City of Santa Barbara*; WCAB Case number ADJ9535185.

Scheduling: Duration, 20 minutes; anytime
Report: None anticipated

PREPARED BY: Ariel Calonne, City Attorney
Mark W. Howard, Risk Manager
SUBMITTED BY: Robert Samario, Finance Director/Acting Assistant City Administrator
APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015
TO: Mayor and Councilmembers
FROM: City Attorney's Office
SUBJECT: Conference With City Attorney – Pending Litigation

RECOMMENDATION:

That Council hold a closed session to consider pending litigation pursuant to subsection (d)(1) of section 54956.9 of the Government Code and take appropriate action as needed.

The pending litigation is *Luke Brost as Trustee for the Luke Brost Living Trust, et al., v. City of Santa Barbara, SBSC Case No. 1342979/Court of Appeal Case No. B246153.*

Scheduling: Duration, 20 minutes; anytime
Report: None anticipated

PREPARED BY: Ariel Calonne, City Attorney
SUBMITTED BY: Ariel Calonne, City Attorney
APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015
TO: Mayor and Councilmembers
FROM: City Attorney's Office
SUBJECT: Conference With City Attorney – Anticipated Litigation

RECOMMENDATION:

That Council hold a closed session to decide whether to initiate litigation pursuant to Section 54956.96 of the Government Code and take appropriate action as needed. (one potential case).

SCHEDULING: Duration, 30 minutes; anytime
REPORT: Report anticipated
SUBMITTED BY: Ariel Calonne, City Attorney
APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 14, 2015

TO: Mayor and Councilmembers

FROM: City Administrator's Office

SUBJECT: Public Employee Performance Evaluation – Government Code Section 54957

RECOMMENDATION:

That Council hold a closed session for a Public Employee Performance Evaluation per Government Code Section 54957.

Title: City Attorney

Scheduling: Duration, 40 minutes; anytime

Report: None anticipated

PREPARED BY: Jennifer Jennings, Administrator's Office Supervisor

SUBMITTED BY: Helene Schneider, Mayor

APPROVED BY: City Administrator's Office