

# CITY OF SANTA BARBARA CITY COUNCIL

**Helene Schneider**  
*Mayor*  
**Bendy White**  
*Mayor Pro Tempore*  
**Randy Rowse**  
*Ordinance Committee Chair*  
**Gregg Hart**  
*Finance Committee Chair*  
**Jason Dominguez**  
**Frank Hotchkiss**  
**Cathy Murillo**



**Paul Casey**  
*City Administrator*

**Ariel Pierre Calonne**  
*City Attorney*

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

## AUGUST 9, 2016 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.santabarbaraca.gov/citytv](http://www.santabarbaraca.gov/citytv) for rebroadcasts of Finance and Ordinance Committee meetings, and for any changes to the replay schedule.

## **ORDER OF BUSINESS**

12:30 p.m. - Ordinance Committee Meeting, Council Chamber  
2:00 p.m. - City Council Meeting

### **ORDINANCE COMMITTEE MEETING - 12:30 P.M. IN THE COUNCIL CHAMBER (120.03)**

#### **Subject: Proposal To Amend Harbor Slip Assignment Policy (120.03)**

Recommendation: That the Ordinance Committee review and forward to Council for introduction ordinance amendments to Section 17.20.005 of the Santa Barbara Municipal Code related to the Slip Assignment Policy that extend the time allowed for a slip permittee to replace a vessel that is donated, stolen, destroyed or otherwise permanently removed from the slip from 120 days to 180 days and eliminate the Lottery List Assignment Fee for slips assigned from the Lottery Waiting List.

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

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **ROLL CALL**

### **CHANGES TO THE AGENDA**

### **PUBLIC COMMENT**

### **CONSENT CALENDAR**

- 1. Subject: Adoption Of Ordinance For Encroachment Permits For Victoria Hall Theater Facilities At 33 West Victoria Street And Parking Lot No. 5 (330.01)**

Recommendation: That Council adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Approving An Encroachment Permit Agreement with Child Abuse Listening Mediation, Inc., a California Nonprofit Public Benefit Corporation, Ensemble Theatre Company, Inc., a California Non-profit Corporation, and Luria New Vic, LLC, a California Limited Liability Company, Affecting the Properties Known as 1236 Chapala Street and 33 West Victoria Street, and Approving An Encroachment Permit Agreement With Ensemble Theatre Company, Inc., a California Non Profit Corporation, Affecting the Property Known as 33 West Victoria Street, Each Agreement Intended to Terminate and Supersede Encroachment Permit Agreement 24,521, Approved by Ordinance 5621, and Adopted by Council on June 4, 2013, for Portions of Site Improvements That Were Authorized to Encroach Along and Into the Frontage of Victoria Street, and a Portion of City Parking Lot No. 5, and Authorizing the Public Works Director to Execute Both Encroachment Permit Agreements.

## CONSENT CALENDAR (CONT'D)

### 2. **Subject: Transfer Of 518 East Canon Perdido (Eleanor Apartments) To The Housing Authority Of The City Of Santa Barbara (660.01)**

Recommendation: That Council:

- A. Approve Assignment and Assumption Agreement that assigns all contractual rights, duties and obligations of all City documents to the Housing Authority;
- B. Increase appropriations in the amount of \$122,000 in the Housing Successor Agency Fund, from reserves, to cover the cost of the additional loan amount;
- C. Increase the allocation to City Loan Agreement No. 18,701 account by \$122,000 from the Housing Successor Agency Fund;
- D. Approve the Amendment to the City Loan Agreement No. 18,701, including forgiveness of \$592,000 of accrued interest;
- E. Approve the Additional Advance of \$122,000 to the City Deed of Trust;
- F. Approve the Amendment of the Affordability Control Covenant Imposed on Real Property; and
- G. Authorize the Community Development Director to execute such agreements and related documents, subject to approval as to form by the City Attorney, as necessary.

### 3. **Subject: Consent To Sublease Between Museum Of Exploration And Innovation (MOXI) And Chicken Little At 125 State Street (330.04)**

Recommendation: That Council approve and authorize the City Administrator to execute a Consent to Sublease Agreement between the Children's Museum of Santa Barbara, Inc., dba MOXI, and Chicken Little, LLC for approximately 400 square feet of space within the City-owned property at 125 State Street.

### 4. **Subject: Contract For Preliminary Design And Environmental Studies For Cabrillo Boulevard And Union Pacific Railroad Bridge (530.04)**

Recommendation: That Council authorize the Public Works Director to execute a City Professional Services contract with Ty-Lin International in the amount of \$689,207 for design services of the Cabrillo Boulevard at Union Pacific Railroad Underpass Project, and authorize the Public Works Director to approve expenditures of up to \$68,920 for extra services of Ty-Lin International that may result from necessary changes in the scope of work.

## CONSENT CALENDAR (CONT'D)

### 5. **Subject: Acceptance Of Grant Revenues And Increase The Design Contract For The Gutierrez Street Bridge Replacement Project (530.04)**

Recommendation: That Council:

- A. Authorize an increase in the extra services amount with Drake Haglan and Associates, for bridge design services for the Gutierrez Street Bridge Replacement Project, Contract No. 24,338, in the amount of \$83,194, for a total project expenditure authority of \$733,617;
- B. Accept Federal Highway Administration Highway Bridge Program Grant Funding in the total amount of \$885,300 for right of way phase costs for the Gutierrez Street Bridge Replacement Project;
- C. Authorize the increase of estimated revenues and appropriations in the Fiscal Year 2017 Streets Grant Fund by \$221,325 of the total \$885,300 approved grant for the required right of way costs related to the Gutierrez Street Bridge Replacement Project; and
- D. Approve a transfer of \$28,675 from existing Street Capital Fund appropriations to the Streets Grant Fund to cover the anticipated City Funds required for right of way costs for the Gutierrez Street Bridge Replacement Project, and appropriate these funds in the Streets Grant Fund.

### 6. **Subject: Contract For Contaminated Soils Management Of Water Main Replacement In The 100 To 300 Blocks Of Calle Cesar Chavez (540.06)**

Recommendation: That Council authorize the Public Works Director to execute a City Professional Services contract with Rincon Consultants, Inc., in the amount of \$44,587 for environmental consulting services of the Cabrillo and Alameda Padre Serra Water Line Replacement Project at the 100-300 blocks of Calle Cesar Chavez, and authorize the Public Works Director to approve expenditures of up to \$8,917 for extra services of Rincon Consultants, Inc., that may result from necessary changes in the scope of work.

### 7. **Subject: Authorize Out-Of-City Sewer Service Agreement For 529 Apple Grove Lane (540.13)**

Recommendation: That Council authorize the Public Works Director to execute an agreement for out-of-City sewer service for 529 Apple Grove Lane.

## **CONSENT CALENDAR (CONT'D)**

### **8. Subject: Montecito Water District Funding Agreement (540.10)**

Recommendation: That Council:

- A. Authorize the Public Works Director to execute a Funding Agreement with the Montecito Water District for Phase 1 work associated with ongoing development of a Water Sales Agreement in relation to the City's Charles E. Meyer Desalination Plant as a potential regional water supply;
- B. Authorize the City Attorney to negotiate and execute a Professional Services contract in the amount of \$150,000 with Best, Best & Krieger, for special legal support in the drafting of the Water Sales Agreement;
- C. Authorize the increase of estimated revenues in the Water Operating Fund by \$193,594, which is the Montecito Water District's portion of the Phase I work of the Funding Agreement;
- D. Approve, and authorize the Public Works Director to execute a Professional Services contract in the amount of \$425,187 with Carollo Engineers, for technical support services related to the Water Sales Agreement;
- E. Authorize the Public Works Director to approve expenditures of up to \$42,518.70 for extra services of Carollo Engineers that may result from necessary changes in the scope of work; and
- F. Authorize the City Attorney to make both minor and technical changes to the Funding Agreement necessary to effectuate the final Agreement with the Montecito Water District.

### **9. Subject: Increase To Contract Number 25,572 With PlanetBids For Electronic Bidding System (520.02)**

Recommendation: That Council approve increasing contract number 25,572 by \$6,500 for a new not to exceed amount of \$58,975 to add a license for an Emergency Operations module.

### **10. Subject: Contract For Measuring The Impact Of Neonicotinoid Pesticides On Estuaries And Coastal Streams (570.05)**

Recommendation: Authorize the Parks and Recreation Director to execute a Joint Funding Agreement with the United States Geological Survey (USGS) in the amount of \$50,000 to conduct laboratory testing in support of the "Impact of Neonicotinoid Pesticides on Estuaries and Coastal Streams Research Project."

## **CONSENT CALENDAR (CONT'D)**

**11. Subject: Purchase Order With T-2 Systems For Luke Parking Stations (550.08)**

Recommendation: That Council find it in the City's best interest to waive the formal bid procedure as authorized by Municipal Code Section 4.52.070.K, and authorize the General Services Manager to issue a purchase order to T-2 Systems for eight Luke Parking Payment Stations in an amount not-to-exceed \$90,000.

## **NOTICES**

12. The City Clerk has on Thursday, August 4, 2016, 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.

**This concludes the Consent Calendar.**

## **REPORT FROM THE ORDINANCE COMMITTEE**

## **PUBLIC HEARINGS**

**13. Subject: Fiscal Year 2017 Water Rates Public Hearing And Adoption Of Resolution Amending A Portion Of Resolution No. 16-044 Establishing Water Rates And Fees (540.10)**

Recommendation: That Council:

- A. Hold the continued public hearing for Fiscal Year 2017 water rates from June 14, 2016; and
- B. Adopt, by reading of title only, a Resolution of the Council of the City of Santa Barbara Amending Resolution 16-044 and Establishing Certain Water Service Rates for Fixed Monthly Service Charges and Metered Volumetric Charges.

## **CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS**

### **COMMUNITY DEVELOPMENT DEPARTMENT**

#### **14. Subject: Development Impact Fees (290.00)**

Recommendation: That Council:

- A. Discuss the potential merits and drawbacks of development impact fees;  
and
- B. Direct staff on the process to bring the item back to Council, if needed.

### **FINANCE DEPARTMENT**

#### **15. Subject: New Online Payment System For Utility Bills (210.01)**

Recommendation: That Council receive a demonstration of the City's new electronic bill presentment and payment services system for utility bills.

## **COUNCIL AND STAFF COMMUNICATIONS**

## **COUNCILMEMBER COMMITTEE ASSIGNMENT REPORTS**

## **PUBLIC COMMENT (IF NECESSARY)**

## **CLOSED SESSIONS**

#### **16. Subject: Conference with City Attorney - Anticipated Litigation (160.03)**

Recommendation: That Council hold a closed session to consider significant exposure to litigation (one potential case) pursuant to Government Code sections 54956.9(d)(2) & (e)(1) and take appropriate action as needed.

Scheduling: Duration, 30 minutes; anytime

Report: None anticipated

## **ADJOURNMENT**

CITY OF SANTA BARBARA

**ORDINANCE COMMITTEE MEETING**

MEETING AGENDA

DATE: August 9, 2016  
TIME: 12:30 p.m.  
PLACE: Council Chambers

Randy Rowse, Chair  
Frank Hotchkiss  
Cathy Murillo

Office of the City  
Administrator

Office of the City  
Attorney

Nicole Grisanti  
Supervisor, City Administrator's Office

Ariel Pierre Calonne  
City Attorney

**ITEMS FOR CONSIDERATION**

**1. Subject: Proposal To Amend Harbor Slip Assignment Policy (120.03)**

Recommendation:

That the Ordinance Committee review and forward to Council for introduction ordinance amendments to Section 17.20.005 of the Santa Barbara Municipal Code related to the Slip Assignment Policy that extend the time allowed for a slip permittee to replace a vessel that is donated, stolen, destroyed or otherwise permanently removed from the slip from 120 days to 180 days and eliminate the Lottery List Assignment Fee for slips assigned from the Lottery Waiting List.



# CITY OF SANTA BARBARA

## ORDINANCE COMMITTEE AGENDA REPORT

**AGENDA DATE:** August 9, 2016  
**TO:** Ordinance Committee  
**FROM:** Operations Division, Waterfront Department  
**SUBJECT:** Proposal To Amend Harbor Slip Assignment Policy

### RECOMMENDATION:

That the Ordinance Committee review and forward to Council for introduction ordinance amendments to Section 17.20.005 of the Santa Barbara Municipal Code related to the Slip Assignment Policy that extend the time allowed for a slip permittee to replace a vessel that is donated, stolen, destroyed or otherwise permanently removed from the slip from 120 days to 180 days and eliminate the Lottery List Assignment Fee for slips assigned from the Lottery Waiting List.

### BACKGROUND:

Waterfront Department staff annually reviews Title 17 of the Santa Barbara Municipal Code to identify Sections requiring amendments that will help provide a clear legal framework for administering and implementing Department policies and programs. This year, staff focused on two items in MC 17.20.005 (Slip Assignment Policy).

### DISCUSSION:

#### A. MC 17.20.005 B.3. Replacement Vessel

This Section currently provides a slip permittee 120 days to replace a vessel that is sold, donated, stolen, destroyed or otherwise permanently removed from a slip. This limited time frame presents two related problems. First, after a boater settles affairs related to the sale of his/her vessel, at least 30 days have typically passed, leaving only 90 days to place another boat in their slip. Second, unless the permittee is already negotiating to buy another boat, shopping (often internationally) for their vessel of choice can take time. In order to meet the time requirements placed by the Municipal Code, a slip permittee will often find it necessary to place a "filler" boat in the slip, often an illegal sub-rental on whose title the slip permittee must remain until he/she locates a boat they wish to buy. The Department seeks to take steps to eliminate this practice.

Extending the time for replacing a sold, donated, stolen or destroyed boat from 120 to 180 days would allow more time for a slip permittee to shop for a new vessel and reduce the need to place a temporary, substitute boat in the permittee's slip. It would also provide more berthing opportunities for visiting boats during the 180-day period.

#### **B. MC 17.20.005 C.4. (b) 3 Lottery List Assignment Fee**

Since the 1970s, the Waterfront Department has maintained a waiting list for assigning slip permits that revert to the City, either by voluntary relinquishment or permit termination. In 2005, City Council adopted a new waiting-list structure with three categories: Master Waiting List, Sub-Master Waiting List and Lottery Waiting List.

The Master Waiting List includes applications by slip-size category, ranked by date of application. It has been closed to new applicants since 2000. If a slip permit of a certain size is available for assignment, but that slip-size category on the Master Waiting List has been exhausted, the Department defers to the Sub-Master Waiting List.

The Sub-Master Waiting List ranks all Master Waiting List applicants by application date, regardless of slip-size category. An applicant who has been on the Sub-Master Waiting List the longest may accept or decline a slip permit offer from the exhausted slip-size category. If they decline the offer, the offer is repeated down the Sub-Master Waiting List. If no one on the Sub-Master Waiting List accepts the offer, the Department defers to the Lottery Waiting List.

The Lottery Waiting List, limited to 50 individuals, is utilized if an offered slip permit is not accepted by applicants on the Sub-Master Waiting List.

When City Council adopted this new waiting-list structure, it included a requirement that (unlike assignments from the Master or Sub-Master lists) anyone assigned a slip permit from the Lottery Waiting List must pay an "Assignment Fee" equal to the Department's slip transfer fee at the time. The intention was to dissuade people from transferring Lottery List permits for profit instead of using them for boating. The unintended effect has been to make assignments from the lottery list prohibitively expensive.

Only the smallest slips, typically 20-footers, have been available to Lottery List applicants as applicants on the Sub-Master List are typically waiting for larger slips. Due to the high cost of the "Assignment Fee" (\$4,000 for a 20-foot slip), slips often go unassigned and the Department has, at times, ended up with several unassigned 20-foot slips. Elimination of the Lottery List Assignment Fee would expedite assignment of these permits.

## **CONCLUSION**

The proposed recommendations will help accommodate slip permittees wishing to purchase replacement boats for their slips, eliminate burdensome financial requirements for Lottery Waiting List applicants and increase boating opportunities for the public. On May 19, 2016, the Harbor Commission voted to support these recommendations.

**PREPARED BY:** Mick Kronman, Harbor Operations Manager

**SUBMITTED BY:** Scott Riedman, Waterfront Director

**APPROVED BY:** City Administrator's Office

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE COUNCIL OF THE  
CITY OF SANTA BARBARA AMENDING THE  
MUNICIPAL CODE BY AMENDING SECTION  
17.20.005 OF CHAPTER 17.20 OF TITLE 17  
PERTAINING TO HARBOR SLIP ASSIGNMENTS.

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

SECTION 1. Section 17.20.005 of Chapter 17.20 of Title 17 of the Santa Barbara  
Municipal Code is amended to read as follows:

**17.20.005 Slip Assignment Policy.**

**B. SLIP RENTAL AGREEMENT.**

**3. Replacement Vessel.** If the vessel assigned to the Slip Permit is sold,  
donated, stolen, destroyed or otherwise permanently removed from its Slip, its owner  
must notify the Waterfront Department within 15 days of such event. The slip permittee  
must place a replacement vessel in the Slip assigned to the slip permittee within 180  
days after the occurrence of the event causing the removal of the vessel assigned to the  
Slip Permit, unless granted a written exemption from the Waterfront Director. Failure of  
timely reporting of a sold, donated, stolen, destroyed or otherwise permanently removed  
vessel, or timely assignment of a replacement vessel, shall be grounds for termination  
of the Slip Permit.

**C. SLIP WAITING LISTS.**

**3. Lottery List.**

b. Procedure for Slip Assignment to Lottery List Applicants. A slip that becomes available for assignment to the Lottery List shall be offered for assignment to applicants on the Lottery List according to their rank on the Lottery List. If a slip assignment offer is declined by all applicants on the Lottery List, the slip shall be held in the Waterfront Department's visitor slip inventory for a period of six (6) months. After six (6) months, the slip assignment shall be re-offered individually to applicants on the Lottery List in the same order as the slip assignment was initially offered. If the slip remains unassigned after the re-offer, the procedure shall be repeated every six (6) months until the slip assignment offer is accepted.

c. Procedure for Accepting or Declining a Slip Assignment Offer from the Lottery List.

(1) Acceptance of Slip Assignment Offer.

(a) Notification of slip availability shall be mailed by the Waterfront Department to the applicant at the applicant's most recent address on file in the Waterfront Department. Acceptance of the slip assignment offer must be submitted by the applicant in writing to the Waterfront Department within fourteen (14) days of the date of mailing the notice of slip availability. Acceptance must be submitted to the Waterfront Department in writing.

(2) Declined Lottery List Assignment Offer. Failure of an applicant to accept a slip assignment offer in writing within fourteen (14) days of the date of mailing of such offer by the Waterfront Department shall be considered a declined offer. Declining a slip assignment offer will not result in removal of the

applicant's name from the Lottery List, loss of the applicant's Lottery List Placement Fee, Lottery List Renewal Fee, or change in the applicant's position on the Lottery List.

**4. Slip Waiting Lists Fees.**

- b. Lottery List Placement Fee and Renewal Fee.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA APPROVING AN ENCROACHMENT PERMIT AGREEMENT WITH CHILD ABUSE LISTENING MEDIATION, INC., A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION, ENSEMBLE THEATRE COMPANY, INC., A CALIFORNIA NONPROFIT CORPORATION, AND LURIA-NEW VIC, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AFFECTING THE PROPERTIES KNOWN AS 1236 CHAPALA STREET AND 33 WEST VICTORIA STREET, AND APPROVING AN ENCROACHMENT PERMIT AGREEMENT WITH ENSEMBLE THEATRE COMPANY, INC., A CALIFORNIA NONPROFIT CORPORATION, AFFECTING THE PROPERTY KNOWN AS 33 WEST VICTORIA STREET, EACH AGREEMENT INTENDED TO TERMINATE AND SUPERSEDE ENCROACHMENT PERMIT AGREEMENT 24,521, APPROVED BY ORDINANCE 5621, AND ADOPTED BY COUNCIL ON JUNE 4, 2013, FOR PORTIONS OF SITE IMPROVEMENTS THAT WERE AUTHORIZED TO ENCROACH ALONG AND INTO THE FRONTAGE OF VICTORIA STREET, AND A PORTION OF CITY PARKING LOT NO. 5, AND AUTHORIZING THE PUBLIC WORKS DIRECTOR TO EXECUTE BOTH ENCROACHMENT PERMIT AGREEMENTS

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

SECTION 1. That the Encroachment Permit Agreement (Agreement) with Child Abuse Listening Mediation, Inc., a California Nonprofit Public Benefit Corporation, referred to as "CALM," the owner of Unit 1, in that condominium project known as Chapala at Victoria, commonly known as 1236 Chapala Street, being a portion of Santa Barbara County Assessor's Parcel Number 039-181-023, and Ensemble Theatre Company, Inc., a California nonprofit corporation, referred to as "Ensemble Theatre Company," the owner of Unit 2 in that condominium project known as Chapala at Victoria, commonly known as 33 West Victoria Street, being also a portion of Santa Barbara County Assessor's Parcel Number 039-181-022, and Luria-New Vic, LLC, a California Limited Liability Company, referred to as "Luria-New Vic," which are referred to together as "Permittee," for site improvements authorized to encroach into the frontage of Victoria Street, is approved pursuant to the City Charter, and upon the effective date of the ordinance, the Public Works Director of the City is authorized to execute the same.

SECTION 2. That the Agreement with Ensemble Theatre Company, Inc., a California nonprofit corporation, referred to as "Ensemble Theatre Company," the owner of Unit 2, in that condominium project known as Chapala at Victoria, commonly known as 33 West Victoria Street, being a portion of Santa Barbara County Assessor's Parcel Number 039-181-023, which is referred to as "Permittee," for site improvements authorized to encroach into a portion of City Parking Lot No. 5, is approved pursuant to the City Charter, and upon the effective date of the Ordinance, the Public Works Director of the City is authorized to execute the same.

SECTION 3. That each Agreement set forth above shall substitute, terminate and supersede that existing Agreement No. 24,521, approved by Ordinance No. 5621, adopted by Council on June 4, 2013, and recorded on July 8, 2013, as Instrument No. 2013-0045721 of Official Records, in the Office of the County Recorder, Santa Barbara County.

SECTION 4. That said Agreement with CALM, Ensemble Theatre and Luria-New Vic, shall authorize the Permittee to maintain the concrete entry landing, stairs and ramp with wrought iron railings, raised brick planters with landscaping, brick pavers, park bench alcove, and parkway planters with landscaping located within the frontage of Victoria Street.

SECTION 5. That said Agreement with Ensemble Theatre shall authorize the Permittee to maintain the recessed loading dock lift and equipment, and maintain the fire sprinkler water service line located within a portion of City Parking Lot No. 5.

SECTION 6. That upon the effective date of the Ordinance, the City Clerk, or designee, is authorized to record each Agreement in the Official Records, in the Office of the County Recorder, Santa Barbara County.



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016

**TO:** Mayor and Councilmembers

**FROM:** Administration, Housing and Human Services Division, Community Development Department

**SUBJECT:** Transfer Of 518 East Canon Perdido (Eleanor Apartments) To The Housing Authority Of The City Of Santa Barbara

**RECOMMENDATION:** That Council:

- A. Approve Assignment and Assumption Agreement that assigns all contractual rights, duties, and obligations of all City documents to the Housing Authority;
- B. Increase appropriations in the amount of \$122,000 in the Housing Successor Agency Fund, from reserves, to cover the cost of the additional loan amount;
- C. Increase the allocation to City Loan Agreement No. 18,701 account by \$122,000 from the Housing Successor Agency Fund;
- D. Approve the Amendment to the City Loan Agreement No. 18,701, including forgiveness of \$592,000 of accrued interest;
- E. Approve the Additional Advance of \$122,000 to the City Deed of Trust;
- F. Approve the Amendment of the Affordability Control Covenant Imposed on Real Property; and
- G. Authorize the Community Development Director to execute such agreements and related documents, subject to approval as to form by the City Attorney, as necessary.

**DISCUSSION:**

Background

Eleanor Apartments (Project) is an eight-unit affordable housing complex for very low-income residents with mental health disabilities developed in 1997 by Canon Perdido Associates, LP, a California limited partnership (Owner) under the Low-Income Housing Tax Credit Program. The City assisted the Project by providing a 30-year loan in the

## Council Agenda Report

Transfer Of 518 East Canon Perdido (Eleanor Apartments) To The Housing Authority Of  
The City Of Santa Barbara

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amount of \$511,000. The current balance is \$1,103,000 (\$511,000 principal plus \$592,000 accrued interest), due November 1, 2028. The City loan was comprised of Redevelopment Agency (RDA), HOME, and Socio-Economic Mitigation Program (SEMP) funds.

Eleanor Apartments is master leased to the Mental Health Association, DBA the Mental Wellness Center. The Mental Wellness Center has managed the Project for 17 years, providing supportive services to tenants. Priority status is given to applicants who live with a mental disability, and in some cases the tenants were previously homeless. In the past few years, four out of five vacant units were filled by persons listed on the Central Coast Collaborative (C3H) Vulnerability List.

The Mental Wellness Center approached the City with a request for debt forgiveness in February 2015 because the initial 15-year Low-Income Housing Tax Credit Program compliance period had expired, and the Owner was interested in selling the Project to the organization. If the Mental Wellness Center was able to enter an agreement with the Owner to purchase the Project, and in order to make the purchase feasible, the Mental Wellness Center requested that the City forgive both the principal and accrued interest on the City loan. City staff expressed support (subject to City Council approval) to forgive the accrued interest on the City loan, but not the principal.

After extensive negotiations, the Owner and Mental Wellness Center were unable to agree on a sale price. Existing City documents require that an assignee or transferee of the Project be a not-for-profit corporation, organized under section 501(c) (3) of the Internal Revenue Code, which has a stated corporate purpose of the provision of housing low-income persons. Therefore, the Mental Wellness Center approached the Housing Authority to consider purchasing the Project, with the understanding that Mental Wellness Center would continue to operate and manage the Project under a favorable master lease agreement. The Housing Authority agreed and has been in negotiations with the Owner since January 2016 to purchase the Project. The Owner's firm sale price is \$1,725,000, and the Housing Authority is requesting the City's assistance to bridge the financing gap by amending the City Loan to forgive the \$592,000 accrued interest, increase the principal of the loan by \$122,000, and reduce the interest rate to 3%. Any purchase between the Owner and the Housing Authority will be contingent upon City Council approval of this request.

### Transaction Financing

- Housing Authority Funds: \$ 500,000
- Assumed City Loan: \$1,103,000
- Additional Housing Successor Funds: \$ 122,000
- Purchase Price \$1,725,000

### Amended City Loan Agreement

- Borrower: Housing Authority of the City of Santa Barbara
- Amended Loan Amount: \$633,000 (\$1,103,000 minus up to \$592,000 of accrued interest: plus \$122,000 additional funding (Housing Successor Agency Funds))
- Interest Rate: 3% (previously 6%)
- Payment Terms: Residual Receipts
- Term: 30 years

Long-term Affordability

The City's current Affordability Control Covenant Imposed on Real Property (Covenant) requires that the property remain affordable to very low-income residents until 2057. As a component of this transaction, the Covenant will be assigned to the Housing Authority and amended to extend the term 19 more years to 2076.

Staff supports this request because it will allow the Mental Wellness Center to continue to manage the property and keep its vulnerable clients housed. The transition would be seamless for the tenants, and a favorable lease arrangement with the Housing Authority will enable the Mental Wellness Center to continue to provide extensive supportive services to these vulnerable low-income individuals and families dealing with mental disabilities and homelessness.

**BUDGET/FINANCIAL INFORMATION:**

The source of funds for the additional \$122,000 will be from the Housing Successor Agency Fund, which receives income generated by outstanding former Redevelopment Agency loan repayments. Sufficient reserves exist to increase appropriations to cover the proposed commitment.

**FINANCE COMMITTEE RECOMMENDATION:**

On August 2, 2016, Council's Finance Committee reviewed and approved the recommendations of this report and forwarded them to full Council with a recommendation for approval.

**PREPARED BY:** David Rowell, Housing Project Planner/DER/SLG

**SUBMITTED BY:** George Buell, Community Development Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016

**TO:** Mayor and Councilmembers

**FROM:** City Administrator's Office

**SUBJECT:** Consent To Sublease Between Museum Of Exploration And Innovation (MOXI) And Chicken Little At 125 State Street

### **RECOMMENDATION:**

That Council approve and authorize the City Administrator to execute a Consent to Sublease Agreement between the Children's Museum of Santa Barbara, Inc., dba MOXI, and Chicken Little, LLC for approximately 400 square feet of space within the City-owned property at 125 State Street.

### **DISCUSSION:**

The subject premises are located at the City-owned property at 125 State Street. On August 6, 2014, the City Council approved a 50-year lease agreement with the Children's Museum of Santa Barbara, providing the property to build a three-story, 16,691 square foot museum. Under the agreement, the Museum pays the City \$1 annually in rent to encourage the construction and operation of the facility for the community's benefit. Known as the Wolf Museum of Exploration and Innovation (MOXI), the museum will provide interactive learning experiences for children and families in science and creativity.

The museum is currently under construction with plans to open to the public by early 2017. After completion of construction as evidenced by issuance of a certificate of occupancy by the City's Building Inspector, the 50-year ground lease will commence.

At this time, the Museum wishes to enter into a sublease agreement with Chicken Little for approximately 400 square feet of space to operate a gift shop. The term of the agreement is January 1, 2017 through January 1, 2020. Chicken Little will pay a fixed minimum rent of \$2,400 per month and 10% of the gross sales of MOXI branded merchandise. The rent will increase by 3% per year.

A copy of the agreement is on file at the City Clerk's Office at City Hall, 735 Anacapa Street. In accordance with the terms of the lease, the City may approve a sublease of a small portion of the museum.

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**PREPARED BY:** Nina Johnson, Assistant to the City Administrator

**SUBMITTED BY:** Paul Casey, City Administrator

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Contract For Preliminary Design and Environmental Studies For Cabrillo Boulevard And Union Pacific Railroad Bridge

### **RECOMMENDATION:**

That Council authorize the Public Works Director to execute a City Professional Services contract with Ty-Lin International in the amount of \$689,207 for design services of the Cabrillo Boulevard at Union Pacific Railroad Underpass Project, and authorize the Public Works Director to approve expenditures of up to \$68,920 for extra services of Ty-Lin International that may result from necessary changes in the scope of work.

### **DISCUSSION:**

#### Background

The approved and constructed Highway 101 Operational Improvements Project (also known as the Milpas to Hot Springs Project) included a new tunnel adjacent to the Union Pacific Railroad (UPRR) Bridge to provide pedestrian and bicycle access between Coast Village Road and the beachway on Cabrillo Boulevard. The tunnel and multipurpose path components were included in that project for necessary consistency with policies addressing pedestrian and bicycle coastal access across Highway 101. Despite the Santa Barbara County Association of Governments' (SBCAG) efforts to construct the tunnel, UPRR was ultimately unwilling to allow the tunnel in their right of way due to structural concerns associated with the existing bridge. UPRR expressed support for bridge replacement as an alternative.

On April 23, 2013, City Council authorized a Memorandum of Understanding (MOU) with SBCAG for improvements along Cabrillo Boulevard under Highway 101 and the UPRR Bridge to safely connect bicycle and pedestrian paths at Los Patos Drive and Coast Village Road. At the same time, Council authorized the execution of a contract

with HDR Engineering, Inc. (HDR), for the conceptual design services required to fulfill the original MOU.

The City received an approval letter from UPRR on September 26, 2015, for the concept design completed by HDR. Subsequently, the City and SBCAG agreed that the original MOU has been fulfilled and that a new MOU was required to continue with the next phase of the Project.

On April 12, 2016, Council authorized a new MOU with SBCAG for Design and Environmental Approval of the Cabrillo Boulevard at Union Pacific Railroad Underpass Project (Project). The new MOU provides the contractual mechanism between SBCAG and the City to continue to make progress on the Project. SBCAG has agreed to fund up to \$800,000 in environmental, preliminary engineering, and design services for the project. This will cover the anticipated cost of consultant work products, any UPRR review costs, and City staff costs up to 5 percent of the total.

### Project Description

In review of the South Coast 101 High Occupancy Vehicle (HOV) Lanes Project, the City identified the access and circulation deficiencies associated with the existing UPRR Bridge at Cabrillo Boulevard. Subsequently, SBCAG created the Project parallel to the HOV project, and the City and SBCAG entered into the original MOU for preliminary design of the replacement of the UPRR Bridge at Cabrillo Boulevard.

The Project will construct Active Transportation (pedestrian and bicycle) Improvements on East Cabrillo Boulevard between the Highway 101 ramps and the intersection with Los Patos Drive, including replacing the UPRR Bridge. Design of the project will be completed in two phases. Phase 1 of the design is Preliminary Engineering, requiring an investigation as to the most cost-effective alternatives for locating the Active Transportation Improvements, the location of the railroad track shoo-fly, and the replacement bridge type selection, culminating in a Project Report Equivalent and environmental approval for both the National Environmental Policy Act and the California Environmental Quality Act. Phase 2 of the design will require final plans, specifications, and cost estimates for the construction of the Project improvements.

The new MOU is for Phase 1 of the design. SBCAG has secured funding to complete this phase of design. During this phase, the City will work with Ty-Lin International (TYLI) to refine the engineering aspects of the project, conduct environmental studies, and prepare an environmental document with the objective to obtain environmental clearance. Phase 2 will be completed under separate contract provided sufficient grant funds can be secured following the successful completion of Phase 1.

Design Phase Consultant Engineering Services

Staff recommends that Council authorize the Public Works Director to execute a contract with TYLI for \$689,207 for design and \$68,920 for potential extra services, for a total amount of \$758,127. TYLI is experienced in this type of work and was selected following a Request for Qualifications, in accordance with Federal procurement requirements.

Funding

SBCAG has allocated \$800,000 for this next phase of work. Approximately \$2.5 million in state and federal grant funds are available for environmental and design work. SBCAG will reimburse the City for all participating project costs associated with this phase, up to \$800,000. This includes up to five percent (\$40,000) reimbursement for City staff efforts.

The following summarizes all estimated total Project costs:

**ESTIMATED TOTAL PROJECT COST**

Conceptual Design (by HDR)	\$99,105
Other Design Costs - City staff	\$10,000
<b>Subtotal</b>	<b>\$109,105</b>
<hr/>	
Project Approval and Environmental Document (this phase)	\$758,127
Other PA&ED Costs including City staff	\$41,873
<b>Subtotal (Phase 1)</b>	<b>\$800,000</b>
Estimated Final Design (by Contract)	\$712,500
Other Final Design Costs including City staff	\$37,500
<b>Subtotal (Phase 2)</b>	<b>\$750,000</b>
<b>Subtotal (Design)</b>	<b>\$1,659,105</b>
Estimated Construction Contract w/Change Order Allowance	\$19,100,000
Estimated Construction Management/Inspection by Contract	\$1,500,000
Estimated Other Construction Costs (design support, agency staff, testing, etc.)	\$400,000
<b>Subtotal (Construction)</b>	<b>\$21,000,000</b>
<b>TOTAL PROJECT COST</b>	<b>\$22,659,105</b>

There are sufficient appropriated funds in the Streets Grant Fund to cover Phase 1 design costs.

**PREPARED BY:** Brian D'Amour, P.E., City Engineer/tb

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016

**TO:** Mayor and Councilmembers  
**ROM:** Engineering Division, Public Works Department

**SUBJECT:** Acceptance Of Grant Revenues And Increase The Design Contract For The Gutierrez Street Bridge Replacement Project

**RECOMMENDATION:** That Council:

- A. Authorize an increase in the extra services amount with Drake Haglan and Associates, for bridge design services for the Gutierrez Street Bridge Replacement Project, Contract No. 24,338, in the amount of \$83,194, for a total project expenditure authority of \$733,617;
- B. Accept Federal Highway Administration Highway Bridge Program Grant Funding in the total amount of \$885,300 for right of way phase costs for the Gutierrez Street Bridge Replacement Project;
- C. Authorize the increase of estimated revenues and appropriations in the Fiscal Year 2017 Streets Grant Fund by \$221,325 of the total \$885,300 approved grant for the required right of way costs related to the Gutierrez Street Bridge Replacement Project; and
- D. Approve a transfer of \$28,675 from existing Street Capital Fund appropriations to the Streets Grant Fund to cover the anticipated City Funds required for right of way costs for the Gutierrez Street Bridge Replacement Project, and appropriate these funds in the Streets Grant Fund.

### **DISCUSSION:**

#### Background

The Gutierrez Street Bridge is eligible for replacement under the Federal Bridge Replacement Program. Federal Highway Administration (FHWA) funds will be used to reimburse the City for 88.53 percent of design, right of way, and construction costs. While funding comes from the FHWA, Caltrans Local Assistance provides project oversight. The City's grant fund match rate is 11.47 percent.

The FHWA recently authorized the Gutierrez Street Bridge Replacement Project (Project) to proceed with the right of way phase. The Project has a total allocation of up to \$1,000,000 for the right of way phase. However, the current staff estimate for the

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right of way costs is approximately \$250,000. Therefore, staff recommends appropriating only \$221,325 for the right of way phase at this time from the grant, and the balance of \$28,675 will be covered from existing appropriations in the Streets Capital Fund which staff is recommending be transferred to the Streets Grant Fund.

Current Status

The Project is being designed by Drake Haglan and Associates (DHA) and is in the final design phase. All environmental and design studies have been completed and approved. The Project has received both National Environmental Policy Act and California Environmental Quality Act clearances. The Project has received conceptual and design approval by the Historic Landmarks Commission. Staff received authorization to pursue right of way easements for the Project and estimate completion of the right of way phase to be in this calendar year. Construction of this Project is currently scheduled for the spring of 2017, pending availability of the required City match for construction.

Design extra services in the amount of \$83,194 are required to complete final design for: extended creek walls, soils explorations, structural design, fish passage, additional technical memorandum, and sewer siphon replacement.

**BUDGET/FINANCIAL INFORMATION:**

Funding

The following tables summarize the expenditures recommended in this report:

**DESIGN SERVICES CONTRACT FUNDING SUMMARY**

	<b>Base Contract</b>	<b>Change Order</b>	<b>Total</b>
DHA Initial Contract Amount	\$591,294	\$59,129	<b>\$650,423</b>
Proposed Increase	\$75,631	\$7,563	<b>\$83,194</b>
<b>Total</b>	<b>\$666,925</b>	<b>\$66,692</b>	<b>\$733,617</b>

Upon approval of the design extra services, the total design services contract expenditure authority will be increased to \$733,617.

The following table summarizes all estimated project design, right of way, and construction costs.

**ESTIMATED TOTAL PROJECT COST**

<b>De La Guerra Bridge Replacement</b>	<b>FHWA Share</b>	<b>City Share</b>	<b>Total Project</b>
Design (by Contract)	\$575,819	\$74,604	\$650,423
Design Management (by City Staff)	\$279,755	\$36,245	\$316,000
Increased Costs	\$73,652	\$9,542	\$83,194
Non-Participating Design Costs	\$0	\$40,000	\$40,000
<b>Design</b>	<b>\$929,226</b>	<b>\$160,391</b>	<b>\$1,089,617</b>
<b>Right of Way</b>	<b>\$221,325</b>	<b>\$28,675</b>	<b>\$250,000</b>
<b>Construction</b>	<b>\$4,145,860</b>	<b>\$537,140</b>	<b>\$4,683,000</b>
<b>Project Total</b>	<b>\$5,296,411</b>	<b>\$726,206</b>	<b>\$6,022,617</b>

Appropriation of the FHWA grant and reprogramming of existing appropriations from the Streets Capital Fund budget, will cover the cost for design and right of way phase tasks. The requested transfer of \$28,675 (per recommendation D) will come from the Pavement Maintenance capital project within the Streets Capital Fund. The Pavement Maintenance capital project will be reimbursed by the same amount in Fiscal Year 2017 after the sale of City-owned property at 20 West Mason. That property was acquired through an FHWA grant in order to facilitate construction of the Mason Street Bridge. Although funds were previously appropriated in anticipation of this property sale, it can now be reasonably assumed that surplus funds will be available.

The estimated funds for the City's matching share of the construction phase is intended to be programmed later this fiscal year by separate Council action. Project costs will be refined after final design is completed. At that time, staff may request an adjustment to approved amounts through Caltrans to the FHWA, as necessary to complete the Project. Staff will return to Council for any additional appropriations to proceed with future phases of work.

**PREPARED BY:** John Ewasiuk, Principal Civil Engineer/JC/tb

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Contract For Contaminated Soils Management Of Water Main Replacement In The 100 to 300 Blocks Of Calle Cesar Chavez

### **RECOMMENDATION:**

That Council authorize the Public Works Director to execute a City Professional Services contract with Rincon Consultants, Inc., in the amount of \$44,587 for environmental consulting services of the Cabrillo and Alameda Padre Serra Water Line Replacement Project at the 100-300 blocks of Calle Cesar Chavez, and authorize the Public Works Director to approve expenditures of up to \$8,917 for extra services of Rincon Consultants, Inc., that may result from necessary changes in the scope of work.

### **DISCUSSION:**

#### Background

The City replaces 1 percent (3 miles) of the water mains in the City's water distribution system each year to minimize the occurrence of main breaks and related emergencies, and to maintain an upgraded water infrastructure for the Santa Barbara community. In addition to this annual upgrade, the City is replacing the water mains along Calle Cesar Chavez to prepare for the anticipated increase in water pressure from the Charles E. Meyer Desalination Facility.

The City utilizes environmental consulting services to assess soil conditions in suspected contaminated areas to better plan for the safety and environmental provisions of water main replacement projects before the construction phase begins. On April 11, 2016, the City approved a professional service contract with Rincon Consultants, Inc. (Rincon), to sample soils along Calle Cesar Chavez, a street in close proximity to soils known to be contaminated from fill material associated with the 1925 Santa Barbara earthquake. On June 2, 2016, Rincon reported non-hazardous contaminants from collected soil samples. Continued services are required to outline proper handling, management, and disposal of soils during the construction phase of the Calle Cesar Chavez Water Main Replacement.

### Contaminated Soils Management Description

The work consists of monitoring the soil while the general contractor excavates for the water main replacement. Rincon will be onsite to collect soil samples at the final excavation depth to field verify the extent of reported contaminants and concentration levels. Rincon will collect samples every 200 linear feet, working with the contractor to stay on schedule. Construction is estimated to take 20 working days of excavation along Calle Cesar Chavez between East Yanonali Street and East Gutierrez Street. Rincon will include all excavation monitoring work in the existing Soil Management Plan as well as the management of the proper handling and disposal of contaminated soils to a designated landfill by a licensed contaminated soils transporter. Following the completion of the excavation monitoring and sample analyses, Rincon will submit a final report on the documented findings to the City's project manager. The screenings performed in the final report need to comply with standard procedures set forth by the Santa Barbara County Public Health Department, Environmental Health Services (EHS). Rincon will also submit a final report to the Santa Barbara County Air Pollution Control District upon project completion.

### Design Phase Consultant Engineering Services

Staff recommends that Council authorize the Public Works Director to execute a contract with Rincon Consultants, Inc., in the amount of \$44,587 for environmental monitoring and reporting, and \$8,917 for potential extra services, for a total amount of \$53,504. Rincon is experienced in this type of work and was selected based on their prior involvement with the City on this project.

### Community Outreach

Rincon will submit EHS-approved public notifications to adjacent tenants, property owners, the City's Building and Zoning Division and the Water Resources Division, as well as upload the notifications to the State Water Resources Control Board's online Geotracker Database.

### Funding

There are sufficient appropriated funds in the Water Capital Fund to cover these costs.

**PREPARED BY:** Linda Sumansky, Principal Civil 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:** August 9, 2016

**TO:** Mayor and Councilmembers

**FROM:** Water Resources Division, Public Works Department

**SUBJECT:** Authorize Out-Of-City Sewer Service Agreement For 529 Apple Grove Lane

### **RECOMMENDATION:**

That Council authorize the Public Works Director to execute an agreement for out-of-City sewer service for 529 Apple Grove Lane.

### **DISCUSSION:**

The owners of 529 Apple Grove Lane, in an unincorporated County area, have applied for a connection to the City's wastewater system. The applicant originally applied for connection to the City's sewer system in 2007, and Council approved such a connection; however, the connection was never completed, and the agreement between the City and the applicant concerning the connection has since lapsed.

The current request is motivated by a failing septic system serving a single-family residence. This unincorporated area is not served by any other sanitary district, and the property fronts an existing City sewer main. Multiple properties in this unincorporated area in the vicinity of Apple Grove Lane are already connected to the City's sewer system.

Connections to properties outside City limits require execution of a recorded agreement and approval by the Local Agency Formation Commission (LAFCO). LAFCO approved this property's connection to the City's sewer system in 2007, when the property owner first applied for a connection. The recommended agreement has been prepared in conformance with applicable resolutions and requirements of the Municipal Code, including the required Waiver of Right to Protest Annexation.

As part of the 2007 application, the City Planning Division determined that the project was categorically exempt from further environmental review. The City Environmental Analyst has confirmed that this determination remains valid. (CEQA Guidelines, Section § 15301(b)).

**SUSTAINABILITY IMPACT:**

Connection to the City sewer system would eliminate the utilization of the existing on-site septic system at the property and reduce the environmental concerns generated by sewer effluent being released into the area soil.

**PREPARED BY:** Kelley Dyer, Water Supply Manager/DH/mh

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016

**TO:** Mayor and Councilmembers

**FROM:** Water Resources Division, Public Works Department

**SUBJECT:** Montecito Water District Funding Agreement

**RECOMMENDATION:** That Council:

- A. Authorize the Public Works Director to execute a Funding Agreement with the Montecito Water District for Phase 1 work associated with ongoing development of a Water Sales Agreement in relation to the City's Charles E. Meyer Desalination Plant as a potential regional water supply;
- B. Authorize the City Attorney to negotiate and execute a Professional Services contract in the amount of \$150,000 with Best Best & Krieger, for special legal support in the drafting of the Water Sales Agreement;
- C. Authorize the increase of estimated revenues in the Water Operating Fund by \$193,594, which is the Montecito Water District's portion of the Phase I work of the Funding Agreement;
- D. Approve, and authorize the Public Works Director to execute a Professional Services contract in the amount of \$425,187 with Carollo Engineers, for technical support services related to the Water Sales Agreement;
- E. Authorize the Public Works Director to approve expenditures of up to \$42,518.70 for extra services of Carollo Engineers that may result from necessary changes in the scope of work; and
- F. Authorize the City Attorney to make both minor and technical changes to the Funding Agreement necessary to effectuate the final Agreement with the Montecito Water District.

### **DISCUSSION**

#### Background

The Charles E. Meyer Desalination Plant (Desal Plant) was constructed by the City during the last serious drought (1987-1991) as a temporary emergency facility to supply water to the City, the Goleta Water District (GWD), and the Montecito Water District (MWD). The Desal Plant was planned and permitted for a maximum capacity of 10,000 acre feet per year (AFY); however, only 7,500 AFY of reverse osmosis filtration capacity was constructed. The Desal Plant operated from March through June 1992, and

delivered approximately 419 acre feet of desalinated water. Abundant rainfall in March 1992 ended the drought, and the Desal Plant was placed into standby mode. At that time, GWD and MWD indicated that they did not wish to continue their participation in the the Desal Plant.

On June 16, 2015, MWD sent a letter to the City requesting to have the Desal Plant operate as a regional water supply. Both the Central Coast Regional Water Quality Control Board and the California Coastal Commission have verbally indicated that, based on the current permits, the Desal Plant could be operated as a regional water supply.

The current drought is tracking to be the worst in recorded history, which has made it necessary for the City to reactivate the Desal Plant. As of July 26, 2016, the current schedule has the Desal Plant operational in late January 2017, at a capacity of 3,125 AFY.

On September 15, 2015, Council directed staff to initiate formal discussions with MWD regarding a potential Water Sales Agreement, involving the Desal Plant as a regional water supply. The parties began negotiations by entering into a Memorandum of Understanding (MOU), which set out the parameters under which the parties agreed to negotiate. The MOU anticipated that negotiations would be concluded by January 1, 2016; however, negotiations are still ongoing.

### Discussion

On April 26, 2016, Council received an update on the status of the discussions with MWD. As part of that update, staff noted that the next steps would include a Funding Agreement (Agreement) for costs associated with continued negotiations. The costs include technical and legal support needed to develop information and the necessary documents to enter into a Agreement.

Below is a brief summary of the major items the City believes are necessary to be able to enter into a Agreement:

1. Design/Build/Operate Contract Amendment Negotiations And Drafting - Support in negotiations with IDE America, (under contract with the City to reactivate and operate the Desal Plant) for the additional treatment capacity and the revised parameters for operation.
2. Additional Hydraulic Modeling - Related to conveyance of water to MWD.
3. Conveyance Pipeline – Engineering, permitting, and legal support services related to the conveyance piping required to ensure water delivery to MWD.
  - a. Preliminary Design and Contract Documents
  - b. Permitting and Environmental Support
  - c. California Environmental Quality Act Legal Support
4. Legal support for drafting the Agreement
5. City staff billable costs

At this time, MWD is interested in funding all items except Item 3 above. Excluding Item 3 now will prolong the time needed to complete the Agreement. Initial communications from MWD had conveyed an urgency to reaching an agreement, but recent improvements in acquiring additional supplemental water and sustaining lower demands have provided more time to complete an Agreement. Without the benefit of the information from Item 3, it is our best estimate that design and construction of the conveyance piping, to ensure delivery of water under the Agreement, will take at least 24 months, following execution of an Agreement.

Staff recommends contracting with Carollo Engineers (Carollo) for technical support of the Agreement. Carollo is uniquely qualified to support this effort with their background in assisting the City with the reactivation of the Desal Plant and their broad understanding of the City's water distribution system. Carollo's scope of services include supporting staff with the negotiations to amend the Design, Build, Operate contract with IDE America to accommodate the increased production capacity and operations. In addition, Carollo's scope under Item 3 includes the preliminary design for the conveyance pipeline, assist staff with permitting and environmental compliance for the conveyance pipeline, and contract preparation. As noted, MWD is not prepared to authorize Item 3 at this time; however, staff recommends approval of the full negotiated scope of work. Authorization of this work will be delayed until an agreement to proceed is reached. Carollo's hydraulic modeling experience for desalination and their strong experience in water infrastructure projects make them highly qualified to provide the conveyance pipeline preliminary design. Staff recommends authorizing the Public Works Director to execute a contract with Carollo in the amount of \$467,705.70, which includes \$42,500 for extra services that may result from necessary changes in the scope of services.

#### Funding

The total amount anticipated to complete the Agreement is \$727,705.70, comprised of the \$150,000 Professional Services contract with Best Best & Krieger, the \$467,705.70 Professional Services contract with Carollo Engineers and \$110,000 of estimated additional costs, including special legal support, and staff engineering and planning costs. Under Phase 1 of this Agreement, the total cost is anticipated to be \$350,884, with MWD's share being \$193,594, and the City's share totaling \$157,290. As noted above, with the understanding that Phase 2 work will be required, staff is recommending the award of the full contract with Carollo at this time.

Staff recommends increasing estimated revenues in the Water Operating Fund by \$193,594 for Montecito Water District's portion of the Phase I work of the Funding Agreement. Sufficient appropriations exist in the Water Operating Fund for the estimated total cost of \$727,705.70 to complete the Agreement.

This Agreement does not bind the City or MWD to an Agreement, and it obligates MWD to provide payment for work completed, whether the Agreement is entered or not. Should Council support the recommendations, the Agreement will need to go back to

the MWD Board for approval prior to execution by the Public Works Director. A copy of the agreement is available for public review in the City Clerk's Office.

**PREPARED BY:** Joshua N. 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:** August 9, 2016

**TO:** Mayor and Councilmembers

**FROM:** General Services Division, Finance Department

**SUBJECT:** Increase To Contract With PlanetBids For Electronic Bidding System

### **RECOMMENDATION:**

That Council approve increasing contract number 25,572 by \$6,500 for a new not to exceed amount of \$58,975 to add a license for an Emergency Operations module.

### **DISCUSSION:**

Council approved the award to PlanetBids™ to purchase a new electronic bidding system on June 7, 2016, and training was scheduled in July. Our original plan was to implement the Emergency Operations (EO) module at a later date so that we could focus our efforts on implementing the bidding and auction modules. During training, it became apparent that it would be more efficient to add the EO module now, rather than later, because it is tied into the vendor registration process.

We are just starting to notify our vendors about the new electronic bidding system and how to register for the goods and services that they are interested in providing to the City. When vendors are registering, they would have the option to register and get pre-approved to provide goods and services to the City during emergencies. Implementing the EO module now is more efficient and convenient because vendors will only need to register one time. Delaying the implementation of the EO module would require a second outreach effort to vendors.

Unlike the other modules, the EO module can be available to any division and would be useful to other departments during both operational emergencies and Council declared emergencies to identify vendors providing required goods and services.

### **BUDGET/FINANCIAL INFORMATION:**

The cost to add the EO module is \$4,500 for the license and \$1,500 for training, set-up, and configuration. These funds are included in the Information Technology Capital budget for the current fiscal year. Increases for the license for years two through five are capped at 3%.

A copy of the agreement is available for public review in the City Clerk's Office.

**PREPARED BY:** Bill Hornung, C.P.M., General Services Manager

**SUBMITTED BY:** Robert Samario, Finance Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016

**TO:** Mayor and Councilmembers

**FROM:** Creeks Division, Parks and Recreation Department

**SUBJECT:** Contract For Measuring The Impact Of Neonicotinoid Pesticides On Estuaries And Coastal Streams

### **RECOMMENDATION:**

Authorize the Parks and Recreation Director to execute a Joint Funding Agreement with the United States Geological Survey (USGS) in the amount of \$50,000 to conduct laboratory testing in support of the "Impact of Neonicotinoid Pesticides on Estuaries and Coastal Streams Research Project."

### **DISCUSSION:**

#### Project Background

Neonicotinoid pesticides (neonics) are a relatively new class of pesticides that have rapidly gained market share and are now the most widely-used pesticides worldwide. Agricultural use throughout the United States has grown rapidly in both geographic range and amount applied. In addition, neonics are used in non-agricultural applications such as structural pest control (termites, ants), professional landscaping, home garden care, and pet treatments. In California, imidacloprid accounts for most of the neonics used.

The Creeks Division found that imidacloprid is pervasive in urban runoff in Santa Barbara. Samples were collected during multiple storm events from Arroyo Burro, Mission, Laguna, and Sycamore Creeks, and from sites where runoff was collected directly from paved surfaces. All wet weather samples have tested positive for imidacloprid; a stark contrast to the relatively rare detections of pesticides found in hundreds of samples tested over the past fifteen years. The concentrations of imidacloprid are in line with newly documented toxic effects on aquatic organisms, even at very low levels. While much is known about the impacts of neonics on terrestrial pollinators, including bees, far less is known about impacts on aquatic insects, which can be an important source of food for fish and birds. In Europe, research has revealed that bird diversity has decreased in some areas due to persistent, low-level imidacloprid poisoning of non-target aquatic insects.

In July 2015, the Creeks Division partnered with the University of California, Santa Barbara (UCSB), and USGS to submit a grant proposal to California SeaGrant to research the effects of neonics on local creek and estuarine environments. The proposal was funded in February 2016. The Creeks Division FY 2016 Water Quality Monitoring and Research Plan, which was approved by the Creeks Advisory Committee in June 2015, includes the Creeks Division work that is included in the grant.

### Project Description

The “Impact of Neonicotinoid Pesticides on Estuaries and Coastal Streams Project” (Project) is a collaborative effort among the Creeks Division, UCSB and USGS. The Project was designed to understand the potential ecological impacts of neonics in local creeks and estuaries and is comprised of three integrated elements: 1) field testing to measure the concentrations of neonics in creeks and estuaries, 2) laboratory toxicity tests to understand the impact of neonics on aquatic insects, and 3) modeling to project the laboratory results to broader ecological impacts in creeks. The project is funded largely by a \$250,000 grant from the National Oceanic and Atmospheric Administration’s California SeaGrant Grant Program to Principal Investigator Dr. Hunter Lenihan (UCSB). Toxicity testing and mathematical modeling will be completed by UCSB. Field sampling will be conducted by the Creeks Division, with laboratory testing by Dr. Michele Hladik (USGS Pesticide Fate and Transport Group). The contract includes analysis of at least 100 samples for a suite of neonics pesticides.

### Contractor Selection

The Creeks Division selected Dr. Hladik (USGS) as the sole source provider of an academic laboratory located in California with the ability to test for neonicotinoid pesticide contamination in local waters. Dr. Hladik was selected as a partner for the grant proposal because of her expertise in the field of neonic pesticides. Dr. Hladik is the leader of the USGS Pesticide Fate and Transport Group, and has published several peer-reviewed scientific articles on this topic.

### Timeline

With Council approval of the contract, dry-weather sampling will begin in August 2016. Wet weather sampling will be conducted during the 2016-2017 rainy season. Laboratory work and reporting will be completed by December 2017.

### **BUDGET/FINANCIAL INFORMATION:**

The cost to complete laboratory analysis and prepare reports is \$50,000. Creeks Division staff time and the contract with USGS will be used as matching funds for the grant. The time period is August 9, 2016 to December 1, 2017. The Fiscal Year 2017 Creeks Division operating budget includes sufficient funds for this contract.

A copy of the contract/agreement is available for public review in the City Clerk's Office.

**SUSTAINABILITY IMPACT:**

The purpose of the Project is to improve water quality in creeks and estuaries in Santa Barbara. In addition, it supports wildlife, such as birds, that feed on aquatic insects.

**PREPARED BY:** Jill Murray, Water Quality Research Coordinator

**SUBMITTED BY:** Jill E. Zachary, Parks and Recreation Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016

**TO:** Mayor and Councilmembers

**FROM:** Business Services Division, Waterfront Department

**SUBJECT:** Purchase Order With T-2 Systems For Luke Parking Stations  
Waiving Formal Bidding

### RECOMMENDATION:

That Council find it in the City's best interest to waive the formal bid procedure as authorized by Municipal Code Section 4.52.070.K, and authorize the General Services Manager to issue a purchase order to T-2 Systems for eight Luke Parking Payment Stations in an amount not-to-exceed \$90,000.

### DISCUSSION:

The Waterfront Department operates eight parking lots with approximately 2,580 parking stalls. Three of the parking lots, Stearns Wharf, Leadbetter, and Harbor Main, are staffed and use revenue control/point of sale systems that operate with ticket dispensers, and entry and exit gate arms. The Harbor Main parking lot is staffed twenty-four hours a day, 365 days a year. Stearns Wharf and Leadbetter are staffed daily all year long. The remaining five parking lots use T-2 Systems Luke Parking Payment Stations (Luke Stations) and the Leadbetter parking lot is proposed to shift to the Luke Stations this calendar year.

Since 2011, the Department has installed 13 Luke Stations in five Waterfront parking lots with much success. The Luke Stations provide a customer-friendly screen and key pad application which allows residents and visitors to quickly access a parking permit, display the ticket on their dashboard, and go about their enjoyment. In an effort to provide consistency to patrons, the Department is proposing to install a total of 8 additional Luke Stations including six in the Leadbetter parking lot and 2 additional Luke Stations in the Harbor West Parking lot.

T-2 Systems provides consistent client support and the Department has had no issues with their products or services. Therefore, Staff recommends waiving the formal bidding procedure and awarding the contract to T-2 Systems. Funding for the purchase of the T-2 equipment is included in the Waterfront Department Capital Budget.

**PREPARED BY:** Brian J. Bosse, Waterfront Business Manager

**SUBMITTED BY:** Scott Riedman, Waterfront Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016

**TO:** Mayor and Councilmembers

**FROM:** Water Resources Division, Public Works Department

**SUBJECT:** Fiscal Year 2017 Water Rates Public Hearing And Adoption of Resolution Amending a Portion of Resolution No. 16-044 Establishing Water Rates and Fees

**RECOMMENDATION:** That Council:

- A. Hold the continued public hearing for Fiscal Year 2017 water rates from June 14, 2016; and
- B. Adopt, by reading of title only, a Resolution of the Council of the City of Santa Barbara Amending a Portion of Resolution No. 16-044 Adopted by the City Council on June 21, 2016, and Establishing Certain Water Service Rates, Fixed Monthly Charges and Metered Volumetric Charges.

**DISCUSSION:**

As presented to Council during the Fiscal Year 2017 budget development, staff is recommending increases in water rates for Fiscal Year 2017. Proposition 218, approved by California voters in 1996, requires that customers of a utility be notified of proposed rate increases through the agency's regular billing statement or by direct mail sent to the billing address, and that a public hearing be held prior to the adoption of the rate increases. A rate increase can be adopted unless a majority of the customers submit a written protest. Accordingly, the notices for the public hearing were mailed to water customers in April 2016 (See Attachment 1). The notices were also posted on the City's website and emailed to e-bill customers. A copy of the proposed changes to water rates was provided to the City Clerk's office on July 28, 2016, for public review. As of August 4, 2016, one (1) written protest has been received. Adopted rates may be lower than proposed rates noticed to customers, but cannot be higher than noticed rates.

On June 14, 2016, Council opened the public hearing and decided to continue the public hearing to August 9, 2016, for further refinement of the water rates model.

Water Rate Model Refinements

Fiscal Year 2017 includes the start of the sixth year of what is the new drought of record. Water supplies this fiscal year are planned to be dramatically different than past years, with the absence of key local supplies such as Cachuma and Gibraltar reservoirs.

The public hearing was moved to August 9, 2016, to allow sufficient time to confirm that the proposed rates are in alignment with Proposition 218, and consistent with the priorities established by Council in previously adopted water rates. Water rates for metered volumetric charges consist of several components. One of the components is the supply unit cost, which is established for tiered water rates by allocating the City's potable water sources to customer classes and tiers, based on priorities. The priority levels summarized in Attachment 2 have been used for the development of revised Fiscal Year 2017 water rates, which are consistent with water rates previously adopted by Council.

Water rate notices, required by Proposition 218, were mailed in April 2016. The proposed water rates have been revised to reflect the supply allocation priorities. The revised rates proposed for adoption are the same as the noticed rates (Attachment 1), except that the proposed volumetric rate per hundred cubic feet (HCF) for Residential Tier 1 has been lowered from \$4.89/HCF to \$4.56/HCF, and the Commercial Tier 1 rate has been lowered from \$7.88/HCF to \$6.28/HCF.

Upon adoption of revised Fiscal Year 2017 water rates on August 9, 2016, customers would begin to see the changes on their water bill starting as early as September 10, 2016. An example water bill for single-family customers with low, moderate, and high water use is illustrated below:

Usage Level	Monthly Usage (HCF)	Existing Bill	Proposed Bill	Difference
Low	4	\$40.29	\$42.74	\$2.45
Moderate	10	\$91.35	\$120.56	\$29.21
High	20	\$216.77	\$295.46	\$78.69

Unincorporated Area Customers

Historically, City and unincorporated area county customers have been treated as separate customer classes. This distinction has been made because the cost of providing service to the customer class located in the unincorporated area is greater than the cost of providing the same service to customer classes located inside the City. The cost differences are due to the added expenses associated with topography (more hills and required pumping), density (larger parcels mean more pipe length per parcel), Santa Barbara County regulations, and the fact that approximately five percent of the City's water rate customers reside in the unincorporated area, yet a disproportionate amount of infrastructure, facilities, and staff resources are required to serve them. The infrastructure and resources needed to serve the unincorporated area makes up 11 percent of the City's water mains and fire lines, 19 percent of the City's reservoirs, 30

percent of the City's pump stations, and 12 percent of the City's Water Distribution staff resources.

While the additional cost of service to customers in unincorporated areas is justified, further review of the water rates is needed to determine how these costs can be recovered. Therefore, it is recommended that the 30% additional cost increment for the unincorporated areas water rates be temporarily suspended. It is anticipated that the additional cost of service to serve unincorporated areas will be reflected in future rate adjustments.

#### Revenues, Reserves, and Debt Coverage

Projected annual revenue from the revised Fiscal Year 2017 water rates is \$43 million. The annual revenue from the revised rates is about \$2.7 million lower than the originally noticed rates, which will be covered through earned interest income in Water Fund reserves that has accumulated since Fiscal Year 2011 and totals approximately \$3.1 million.

In addition, there is an estimated \$500,000 revenue loss caused by delaying the adoption of increased water rates by approximately one month. This revenue loss will be covered through Water Fund reserves that have been funded through previous water rates.

At the close of Fiscal Year 2016, the reserve balance for the Water Fund is estimated to be \$23.3 million, compared with the policy target of about \$19 million. The noticed rates assumed planned use of reserves to minimize the financial impacts of the drought on customer water bills. Approximately \$7.3 million of reserves are planned to be used in Fiscal Year 2017. The ending reserve balance in Fiscal Year 2017 is projected to be approximately \$16 million, which is \$3 million below the current policy target.

The City's Water Fund parity debt obligations contain a covenant that rates must be set at a level which is sufficient to generate revenue to maintain a debt coverage ratio of 125 percent of total debt service on all parity debt obligations. The debt coverage ratio is calculated by dividing the net operating revenue by the total debt service. Should actual revenue in any fiscal year be lower than expected, or actual operating expenses be higher than projected, the City has \$5 million in the Water Fund Rate Stabilization Fund to help meet debt coverage requirements. It is currently projected that approximately \$2 million of the Water Fund Rate Stabilization Fund will be used to meet debt coverage requirements in Fiscal Year 2017.

The record of proceedings in this matter includes the following:

- Raftelis ("RFC"), 2013. City of Santa Barbara *Water Financial Plan & Rate Study Report*, August 2013.
- RFC, 2014. City of Santa Barbara *Water Drought Rates Development for Fiscal Year 2015*. Memorandum from Sudhir Pardiwala/Hannah Phan to Cathy Taylor dated May 5, 2014.
- RFC, 2015a. City of Santa Barbara *Water Rates Development for Fiscal Year*

2016. Memorandum from Sudhir Pardiwala/Hannah Phan to Kelley Dyer dated March 30, 2015.

- RFC, 2015b. *Debt Coverage Ratio Report for Water Utility*. Letter from Sudhir Pardiwala/Hannah Phan to Kelley Dyer dated July 24, 2015.
- RFC City of Santa Barbara *Water Rates Development for Fiscal Year 2017. DRAFT* Memorandum from Sudhir Pardiwala/Hannah Phan to Kelley Dyer dated May 31, 2016.
- Bartle Wells Associates, 2016. City of Santa Barbara *Fiscal Year 2016/17 Water Rate Model Analysis*. Memorandum from Douglas Dove/Michael DeGroot to City of Santa Barbara City Council, July 27, 2016.
- Statement of Interest Income 2011-2015 dated July 25, 2016 (source- City of Santa Barbara Finance Director)
- Any new evidence or testimony presented at the hearing.

All documents listed above are available for review by the public in the City Clerk's Office and by the City Council in the City Council reading file.

#### Public Meetings

Water Commission discussed proposed changes to Fiscal Year 2017 water rates on February 18, 2016 and May 19, 2016. Proposed Fiscal Year 2017 water rates were discussed with Council on March 18, 2016, April 12, 2016, and May 23, 2016.

- ATTACHMENT(S):**
1. Fiscal Year 2017 Water Rate Notice, mailed in April 2016
  2. Policies for Water Supply Cost Allocation to Customer Classes/Tiers

**PREPARED BY:** Joshua N. Haggmark, Water Resources Manager/KD/mh

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office



**NOTICE OF PUBLIC HEARING  
PROPOSED CHANGES TO CITY OF SANTA BARBARA WATER RATES  
FOR FISCAL YEAR 2017**

**Date: Tuesday, June 14, 2016, 2:00 p.m.**  
**Place: City of Santa Barbara Council Chambers, City Hall**  
**735 Anacapa Street, Santa Barbara**

**PROPOSED CITY FISCAL YEAR 2017 WATER RATES**

You are receiving this Notice because our records indicate that you are a City of Santa Barbara utility customer.  
If you are not a City *water* customer, please disregard this Notice.

This Notice describes proposed water rate increases and explains how you can participate in the process. The City’s water rate structure is based on a comprehensive rate study that used a rate model to evaluate cost of service, as required by Proposition 218.

***Why are water rates increasing?***

- This winter’s rainfall brought very little water to local reservoirs and the City remains in an extreme and historic drought condition.
- Due to the drought, the City faces increased costs to provide additional water supplied from desalination, ground-water, and supplemental water purchases conveyed through the State Water Project and Lake Cachuma.
- The City relies on its customers for extraordinary conservation measures to preserve remaining water supplies. The proposed rates assume a 35% reduction from normal water use.
- Adjustments to water rates are necessary to generate revenue to pay for increased costs and financial impacts incurred due to extreme drought conditions.

***Will the new water rates cover projected costs?***

The proposed water rates are not anticipated to cover all projected costs. To minimize water bill increases, the City plans to use approximately \$5 million in reserves to make up the difference between revenue generated and the cost for service, and will postpone capital projects that can be delayed.

***How will the proposed changes impact my water bill?***

Customers are encouraged to use the online water rate calculator at [SantaBarbaraCA.gov/Water](http://SantaBarbaraCA.gov/Water) to see how the new rates could impact their bill. The table below shows sample water bills for single family homes based on various levels of usage and a 5/8” meter. The table represents the water portion of a utility bill including fixed monthly service charges and volumetric charges which are shown on the next page.

Usage Level	Monthly Usage (HCF)	Existing Bill	Proposed Bill	Difference
Low	4	\$40.29	\$44.06	\$3.77
Moderate	10	\$91.35	\$121.88	\$30.53
High	20	\$216.77	\$296.78	\$80.01

The average single family home uses 9 HCF per month and would see their water bill increase from \$82.84 to \$108.91, reflecting a difference of \$26.07 and an increase of 31%.

Please note, the rates included in this Notice are the highest possible rates that could go into effect July 1, 2016. Should the City’s water supply outlook improve or financial situation change, water rates will be re-assessed downward prior to taking effect.

**CHECK OUT THE WATER RATE CALCULATOR AT:  
[WWW.SANTABARBARACA.GOV/WATER](http://WWW.SANTABARBARACA.GOV/WATER)**

Most water bills are made up of two key components: (1) a volumetric charge based on water usage, and (2) a fixed monthly service charge based on meter size. The City's rate structure is designed in accordance with California Urban Water Conservation Council Best Management Practices, which encourage conservation by limiting the amount of revenue recovered from fixed charges.

**TABLE 1 – PROPOSED MAXIMUM VOLUMETRIC CHARGES**  
**All rates are in \$/HCF. (1 HCF [Hundred Cubic Feet]= 748 gallons)**

Customer Class	Tiers	Current	Proposed
Single Family Residential	First 4 HCF	\$4.20	\$4.89
	Next 12 HCF	\$8.51	\$12.97
	All other HCF	\$18.59	\$24.27
Multi-Family Residential	First 4 HCF (per dwelling unit)	\$4.20	\$4.89
	Next 4 HCF (per dwelling unit)	\$8.51	\$12.97
	All other HCF	\$18.59	\$24.27
Commercial/Industrial	100% of base allotment	\$6.53	\$7.88
	All other HCF	\$15.24	\$23.94
Irrigation – Residential & Commercial	100% of monthly water budget*	\$8.51	\$12.97
	All other HCF	\$18.59	\$24.27
Irrigation – Recreation/Parks/Schools	100% of monthly water budget*	\$3.70	\$3.77
	All other HCF	\$18.59	\$24.27
Irrigation – Agriculture	100% of monthly water budget*	\$2.43	\$3.42
	All other HCF	\$18.59	\$24.27
Recycled Water	All HCF	\$2.96	\$3.02
Outside City Limits	Percentage of corresponding in-City rates	130%	

\* **What is a Monthly Water Budget?** The monthly water budget for irrigation accounts is a calculation of Tier 1 allotment based on the property's irrigated landscape area and the monthly watering needs of plants.

**TABLE 2—PROPOSED MAXIMUM FIXED MONTHLY SERVICE CHARGES**

	5/8"	3/4"	1"	1 1/2"	2"	3"	4"	6"	8"	10"
Current	\$23.49	\$34.19	\$55.61	\$109.14	\$173.38	\$376.82	\$676.61	\$1,393.98	\$2,571.74	\$4,070.71
Proposed	\$24.50	\$35.60	\$57.80	\$113.29	\$179.89	\$390.77	\$701.54	\$1,445.18	\$2,666.07	\$4,219.93
Outside City Limits - 130% of corresponding in-City rates										

**TABLE 3—PROPOSED MAXIMUM FIXED MONTHLY PRIVATE FIRE SERVICE CHARGES (IF REQUIRED AND APPLICABLE)**

	1"	1 1/2"	2"	4"	6"	8"	10"	12"
Current	NA	NA	\$4.67	\$17.31	\$46.04	\$95.59	\$170.12	\$273.42
Proposed	\$2.76	\$3.64	\$5.16	\$19.99	\$53.67	\$111.77	\$199.17	\$320.29
Outside City Limits - 130% of corresponding in-City rates								

**How do I protest?**

If you wish to protest any of the above increases, please deliver your protest **in writing and signed**, including your name and service address, to the City Clerk of the City of Santa Barbara at 735 Anacapa Street, Santa Barbara, CA, 93101, prior to or during the City Council's consideration of this item on **June 14, 2016**. If you wish to submit your protest during the public hearing, please deliver it to City Staff in the Council Chambers. Protests are public records.

**When do the drought rates take effect?**

City Council will consider adopting drought rates on **June 21, 2016** (one week after the public hearing). The new rates will be **effective starting July 1, 2016**.

**How do I stay informed?**

- **Watch** City Council meetings live online at [SantaBarbaraCA.gov/CityTV](http://SantaBarbaraCA.gov/CityTV) or tune in to City TV Channel 18.
- **Explore** updated information on drought conditions, conservation, and rates at [SantaBarbaraCA.gov/Water](http://SantaBarbaraCA.gov/Water)
- **Contact** City staff at (805) 564-5460. Para información en Español, llame al (805) 564-5342.
- **Attend** City Council meetings; City of Santa Barbara Council Chambers, City Hall, 735 Anacapa St., Santa Barbara.

Policies for Water Supply Cost Allocation to Customer Classes/Tiers

City policy governs the allocation of supplies to customer classes and tiers. Consistent with the 2013 Rate Study, the lower cost supplies (Groundwater and Groundwater – OGTP) are provided to Tier 1 Agriculture, Tier 1 Recreation, and Tier 1 Residential (SFR and MFR).

Priority 1

- **Tier 1 Agriculture:** efficient irrigation use for agricultural purposes is given first priority for lowest cost water (groundwater) given the General Plan policies and because this use historically existed before other uses in the area.

Priority 2

- **Tier 1 Residential:** basic health and safety needs for residential customers.
- **Tier 1 Recreation:** efficient irrigation of parks and public spaces. Recreation Tier 1 receives lower cost water given General Plan policies to promote and sustain parks and public safety.

Priority 3

- **Tier 1 Commercial/Industrial:** efficient water use for commercial or industrial purposes. Tier 1 Commercial/Industrial priorities reflect the higher costs of providing uninterrupted service to these customers (e.g. the City will schedule work on repairs outside of normal working hours to minimize service interruption) and reduced flexibility by this customer class to reduce water usage during water shortages.

Priority 4

- **Tier 2 Residential:** considered efficient use, based on characteristics of average residential customers and normal weather conditions. Those customers that regularly cannot stay within Tier 2 (e.g., due to larger-lot sizes) are encouraged to evaluate installation of a dedicated irrigation meter.
- **Tier 1 Irrigation for Residential/Commercial** – efficient irrigation use for residential/commercial customers with dedicated irrigation meters.

Priority 5

- **Tier 2 Agriculture** – inefficient irrigation for agricultural customers.
- **Tier 2 Recreation** – inefficient irrigation for recreation customers.
- **Tier 3 Residential** – inefficient irrigation for residential customers.
- **Tier 2 Commercial/Industrial** - inefficient use for commercial or industrial customers.
- **Tier 2 Irrigation for Residential/Commercial** - inefficient irrigation for those residential/commercial customers with dedicated irrigation meters.

**RESOLUTION NO.**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING A PORTION OF RESOLUTION NO. 16-044 ADOPTED BY THE CITY COUNCIL ON JUNE 21, 2016, AND ESTABLISHING CERTAIN WATER SERVICE RATES, FIXED MONTHLY CHARGES AND METERED VOLUMETRIC CHARGES**

**WHEREAS**, the City provides, maintains and operates a municipal water system that provides water service to customers both inside and outside the limits of the City;

**WHEREAS**, state law and the municipal code authorize the imposition and collection of fees to defray the cost of providing water service to water service customers;

**WHEREAS**, the City's Water Commission considered, discussed and took public testimony regarding the new and increased water rates at its meetings on February 18, 2016 and May 19, 2016;

**WHEREAS**, the City Council has held hearings on the issue of water rates on March 18, 2016, April 12, 2016, and May 23, 2016, and at each of those hearings, members of the public provided input on the rates to the City Council;

**WHEREAS**, notices of proposed Fiscal Year 2017 water service rates for fixed monthly service changes and metered volumetric charges were mailed to all City of Santa Barbara water service customers in April 2016, and on June 14, 2016, the City Council opened a public hearing and determined to continue the public hearing for further refinement of the water rates study and consideration of the Fiscal Year 2017 water service rates and fees to August 9, 2016;

**WHEREAS**, the notice informed affected persons of their right to submit written protests against the water service rate increase;

**WHEREAS**, the City accepted and caused the tabulation of all written protests against the proposed water service rate increase. Based upon the results of this tabulation, a majority protest against the proposed rate increase does not exist;

**WHEREAS**, on June 14, 2016, the City Council held a noticed public hearing pursuant to Government Code Sections 66013 and 66016 in which it considered imposition of one-time water connection and miscellaneous fees for Fiscal year 2017;

**WHEREAS**, on June 21, 2016, the City Council adopted Resolution No. 16-044, which, among other things, imposed certain Fiscal Year 2017 one-time water fees and re-imposed the Fiscal Year 2016 water service rates for fixed monthly service charges and metered volumetric charges for all water service customers;

**WHEREAS**, the City Council now determines to amend Resolution No. 16-044 as it

pertains to water service rates, fixed monthly service charges and metered volumetric charges for all water service customers for Fiscal Year 2017, and such amendments shall be effective immediately upon the adoption of this resolution;

**WHEREAS**, Chapter 14.08 of the Santa Barbara Municipal Code authorizes the City Council to set fees for water meters and water service;

**WHEREAS**, section 14.12.010 of the Santa Barbara Municipal Code authorizes the City Council to set the rate for City water for private fire services when the use of a meter is not required;

**WHEREAS**, the City does currently and wishes to continue to have in effect a water rate structure that reflects an adequate supply of water and promotes the efficient use of such water by its customers;

**WHEREAS**, the City is experiencing an extreme multi-year drought, and is currently in a Stage Three Drought Emergency. Given the continuing drought and projected water shortages, the City Council amended Resolution 15-036 on April 26, 2016 establishing a 35% conservation target. The resolution was first approved in May 5, 2015 with a 25% conservation target. The decrease in water use between FY 2016 and FY 2017 is based on the assumption that in FY 2017 water consumption will be reduced by approximately 35% overall compared to FY 2014 levels;

**WHEREAS**, the proposed Fiscal Year 2016-17 water service rates for fixed monthly charges and metered volumetric charges are based on a 2013 Water Rate Study and model which was updated for fiscal year 2017;

**WHEREAS**, on June 14, 2016, the public hearing was opened and continued to August 9<sup>th</sup> pending further analysis of the rates, which has resulted in an update of the City's water rate model. The proposed rates, in the updated rate model, resulted in rates which were higher for some customers and tier levels, and lower for others, than the rates originally noticed. However, to avoid the need to re-notice the rates, the proposed revised rates are held to the maximum of the proposed rate and the noticed rate. As a result, the rates do not exceed the updated rate model's cost of service, however, certain rates are lower than the updated rate model's cost of service. Given the City's drought emergency and the potential consequences resulting from further delay of necessary rate increases, it is necessary to impose the revised rates that do not exceed the noticed rates. The rate difference can be funded by water fund interest earnings accumulated from FY 2011 to FY 2015;

**WHEREAS**, the allocation of the City's six water sources to customer classes and tiers is based on priority level. Each tier is charged the weighted average cost of water based on the allocated sources. The highest priority customer tiers receive the least expensive sources of water, limited to that tier's percentage of each priorities' total demand times the water source (or remaining water source remaining from a higher priority).

- 1 Tier 1 Agriculture. The highest priority use is allocated to tier 1 agriculture (Ag) for efficient agricultural purposes.
- 2 Tier 1 Residential Single Family (SFR)/Tier 1 Residential Multi-family (MFR)/Tier 1 Recreation (Rec) for essential health and safety purposes and efficient irrigation of parks and public spaces.
- 3 Tier 1 Commercial/Industrial for efficient use of commercial and industrial purposes.
- 4 Tier 2 Residential SFR/MFR and Tier 1 irrigation for efficient irrigation needs for residential/commercial with dedicated irrigation meters.
- 5 Tier 2 Ag/Tier 2 Rec/Tier 3 Residential/Tier 2 Irrigation for residential and commercial dedicated irrigation meters/Tier 2 Commercial or Industrial for inefficient use for agricultural, recreation, residential, commercial or industrial purposes.

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

### **DEFINITIONS**

Wherever used in this resolution the following quoted words shall have the meanings set forth below:

- A. "Account holder" means the person or entity responsible for payment for water service at a particular property, as shown in the City's water billing records.
- B. "Base allotment" means the average monthly consumption on record with the City for the most recent complete off-peak period, or such other level of consumption determined by the Director to represent the average monthly off-peak water usage by a particular customer. An off-peak period for any given customer shall be a period comprised of the service periods charged on bills dated January through June.
- C. "Director" means the Director of the Department of Public Works or his or her designated representative.
- D. "Dominant use" means for any meter serving multiple uses, such as an existing meter serving both a residence and a commercial establishment, the use consuming the most water on average. In cases where a meter serves more than one type of use, the meter will be classified based on the dominant use for billing purposes.
- E. "HCF" means one Hundred Cubic Feet.
- F. "Service" or "water service" means water provided by or through the water distribution facilities of the City.

## 1. WATER SERVICE RATES

The following provisions shall govern all fees related to water service for metered connections to the City water system:

- A. MONTHLY SERVICE CHARGE. A monthly service charge shall be collected for all connections, without regard to actual water use, if any, as follows:

<u>Size of Water Service Meter</u>	<u>Rate (\$/meter/month)</u>
5/8"	\$24.50
3/4"	\$35.60
1"	\$57.80
1 1/2"	\$113.29
2"	\$179.89
3"	\$390.77
4"	\$701.54
6"	\$1,445.18
8"	\$2,666.07
10"	\$4,219.93

- B. USER CLASSIFICATIONS. For the purposes of assessing metered water charges provided for in Subsection C below, user classifications shall be determined and corrected by Staff, using the categories below. Any meter serving multiple uses shall be classified based on the dominant use.

1. Residential Single Family Detached: Applicable to all meters serving one detached dwelling unit.
2. Multifamily 1-4 Units: Applicable to all meters serving two or more detached dwelling units and all meters serving 1, 2, 3, or 4 attached dwelling units.
3. Multifamily Over 4 Units: Applicable to all meters serving five or more dwelling units, any of which are attached.
4. Commercial: Applicable, without regard to meter size, to all accounts serving mercantile buildings, motels and other short term lodging establishments, office buildings, institutional buildings, schools, churches, and other commercial establishments.
5. Industrial: Applicable to all meters serving laundries (other than self-service laundries), manufacturing facilities, and other industrial facilities.
6. Irrigation-Potable: Applicable to meters limited to outdoor water use and

subclassified as provided in Subparagraph a. through c. below. All meters under this classification shall be subject to interruption upon declaration of a Stage Three Drought Condition. There shall be no connection between a meter served under this classification and any dwelling or commercial or industrial structure.

- a. Irrigation-Agriculture: Applicable only to Potable Irrigation meters that serve bona fide commercial agricultural enterprises, including nurseries. A bona fide commercial agricultural enterprise is one that grows and sells one or more type of agricultural or horticultural products, for the purpose of producing income from the sale of these products. The amount of water made available in the first tier of metered water usage under this sub-classification shall be based on the square footage of the commercial crop area that is planted and irrigated as part of the enterprise. As a condition of the right to receive Irrigation-Agriculture service, the Director may require an Account holder to submit to the Director any documentary or other evidence necessary to establish to a reasonable degree of certainty that the property served by the meter is being used to conduct a bona fide commercial agricultural enterprise as defined above. Such evidence may include tax returns, bills of sale, or similar documents.
  - b. Irrigation-Recreation: Applicable only to Potable Irrigation meters that serve areas used primarily for passive or active recreational purposes, including parks, playgrounds, golf courses, school yards, and publicly owned open spaces and landscaped areas. The amount of water made available in the first tier of metered water usage under this sub-classification shall be based on the square footage of the irrigated area served by the meter.
  - c. Irrigation-Urban (Residential / Commercial): Applicable to Potable Irrigation meters serving properties that are primarily residential in use or are zoned for residential use or commercial, industrial, or institutional in use. The amount of water made available in the first tier of metered water usage under this subclassification shall be based on the square footage of the irrigated area served by the meter.
7. Recycled Water: Applicable to all meters providing recycled wastewater.
  8. State Institutional: Applicable to customers that are State agencies located in the unincorporated area of the County of Santa Barbara
  9. Unincorporated Areas: Applicable to all meters serving properties that are not state agencies and are located in the unincorporated area of the County of Santa Barbara.

C. METERED WATER CHARGE. In addition to all other charges imposed by Chapter 14.08 of the Santa Barbara Municipal Code, including but not limited to the monthly service charges set forth in Subsection I.A. above, water use shall be charged according to the following block rates for those user classifications defined in Subsection B above. Usage shall be measured in units of 100 cubic feet (HCF).

Usage Quantities (Monthly, except as specified)	Rate (\$/HCF)
1. <u>Residential Single Family</u>	
First 4 hcf	\$4.56
Next 12 hcf	\$12.97
Over 16 hcf	\$24.27
2. <u>Multi-Family 1-4 Dwelling Units</u>	
First 4 hcf/unit	\$4.56
Next 4 hcf/unit	\$12.97
Over 8 hcf/unit	\$24.27
3. <u>Multi-Family Over 4 Dwelling Units</u>	
First 4 hcf/unit	\$4.56
Next 4 hcf/unit	\$12.97
Over 8 hcf/unit	\$24.27
4. <u>Commercial</u>	
Up to 100% of base allotment	\$6.28
All other use	\$23.94
5. <u>Industrial</u>	
Up to 100% of base allotment	\$6.28
All other use	\$23.94
6. <u>Irrigation - Potable:</u>	
The first tier of all irrigation accounts shall be calculated using the following formula:	

$$\text{Monthly Water Budget} = (ET_o)(.62/748)((PF \times HA)/IE)$$

Where

- $ET_o$  = Reference evapotranspiration (weather factor)
- $0.62/748$  = Conversion factor (inches to HCF)
- PF = Plant factor
- HA = Square footage of irrigated area(s)
- IE = Irrigation efficiency (80%)

The Monthly Water Budget shall be determined using real-time monthly  $ET_o$  data from a local weather station, plant factors that relate plant type water use needs to the  $ET_o$ , and irrigated area by plant type. Irrigation system efficiency is set at a constant value of 80% for all account types.

Monthly Water Budgets shall be based on irrigated area only. Accounts shall be subject to mandatory ground-truthing measurement at Staff discretion to verify measurement accuracy of irrigated areas and plant types. If ground-truthing measurements are not completed within 2 months after initial contact due to lack of customer response, service may be subject to suspension until irrigated landscaped areas are verified in the field.

a. Irrigation - Agriculture

All Use within Monthly Budget	\$3.42
All other use	\$24.27

$HA_c$  = total crop irrigated area (square feet)

If the crop is a tree species the crop irrigated area is the number of irrigated trees multiplied by the average tree area. The average tree area is the area of a circle with a diameter equal to the average diameter of the drip line of the relevant species. An alternate method to calculate the irrigated area may be used as approved by the Director.

$PF_c$  = 75%

b. Irrigation - Recreation

All Use within Monthly Budget	\$3.77
All other use	\$24.27

$HA_t$  = total irrigated turf area (square feet)

Turf  $PF_t = 80\%$

$HA_s =$  total irrigated shrub area (square feet)

Shrub  $PF_s = 30\%$

Bird Refuge

Upon finding that there are adequate water resources available to allow such use, the Director may also authorize the sale of up to a total of 21,780 HCF (50 acre feet) per year at the first block recreation rate for use in refilling the Andre Clark Bird Refuge.

c. Irrigation - Urban (Residential/Commercial)

All Use within Monthly Budget \$12.97

All other use \$24.27

$HA_t =$  total irrigated turf area (square feet)

For Residential Irrigation,  $HA_t$  cannot exceed 20% of total irrigated area. If measurements are greater than 20%, the remainder square footage will be assigned to the  $HA_s$ .

$PF_t =$  turf plant factor = 80%

$HA_s =$  total irrigated shrub area (square feet)

For Commercial Irrigation, 100% of total irrigated area is considered  $HA_s$ , unless a permitted exception of Landscape Design Standards has been approved.

$PF_s =$  shrub plant factor = 30%

Plant Factor percentage allotments reflect the requirements of the City's Landscape Design Standards for Water Conservation per SBMC 22.80.

7. Recycled Water

All HCF \$3.02

8. State Institutional

Up to 100% of base allotment: \$6.28

All other use: \$23.94

9.

D. FAILURE TO CONNECT TO RECYCLED WATER SYSTEM. Where the Director has determined that use of recycled water is feasible at and on a particular property and has notified the account holder for the meter serving such property of this fact as described in Section 14.23.030 of the Santa Barbara Municipal Code, and thereafter the user has failed to substitute recycled water use for potable water use, the charge for provision of potable water use shall be double the otherwise applicable charge for metered water.

E. GRANTING OF ADJUSTMENTS TO EXTRAORDINARY WATER CHARGES. Upon an account holder's application that is 1) received within 45 days of a relevant billing date, 2) submitted on a form provided by the Finance Director, and 3) supported by detailed written documentation, the Finance Director, or a designee of the Finance Director, shall have the authority to make adjustments to extraordinary water charges in the event of hidden leaks, undetected line breaks, or other circumstances that are demonstrated to be beyond the reasonable control of the account holder. Such adjustments shall be made in accordance with guidelines approved by the City Administrator's Office. However, such adjustments shall in no case result in a cost per HCF that is less than the lowest unit rate for residential customers located within the City limits. The decision of the Finance Director, or said designee, regarding any such adjustment shall be final. Adjustments shall be allowed under this section only once per account, per account holder in any five year period.

F. MISCELLANEOUS SERVICES. The following miscellaneous fees related to water service shall be charged and collected upon demand:

Service Initiation Fee:	\$47
Service Restoration Fee:	\$64
Administrative Account Transfer Fee:	\$21
Declined Payment Fee: See Finance Administrative Fees	
If a payment is returned for insufficient funds for a second time in any 12 month period, payments will only be accepted via cash, cashier's check, money order or credit card.	
Delinquent Payment Fee: per account, per month, for any billing period in which a delinquent unpaid balance exists	\$8.00
Upgrade of existing fire hydrant to City standard where only the fire hydrant head needs replacement:	
Upgrade to standard residential hydrant:	\$1,607
Upgrade to standard commercial hydrant:	\$3,000
Fire Hydrant Flow test:	\$150
Meter Flow Test:	\$82

G. TAMPERING

FEES

In addition to the fees below, reconnection fees shall be applied. Unauthorized water use via tampering may also be subject to Administrative Penalties per S.B.M.C. Section 1.28.

Damaged/Missing Locks:	\$54
Damaged/Missing Locking Brackets:	\$123

H. DAMAGE TO CITY WATER SYSTEM INFRASTRUCTURE

City shall be reimbursed for the time and material cost to repair damage inflicted on City water system infrastructure and for any water lost as a result of the damage. Any water lost as a result of damage to water system infrastructure shall be billed at the current first block Commercial rate.

I. LABORATORY ANALYSIS

City shall be reimbursed at cost for laboratory analyses performed on behalf of private parties.

J. CHANGE OF ACCOUNT HOLDER UPON TERMINATION OF TENANCY.

Upon termination of utility service by an account holder who is a tenant, the property owner, or agent thereof, shall automatically become the account holder, provided that the City has on file a written request from such property owner or agent authorizing such change. In the event that the account holder is transferred to a new account holder willing to take responsibility for all charges incurred after the most current bill, the Administrative Transfer Fee shall apply in lieu of the Service Initiation Fee.

**2. NON-METERED PRIVATE FIRE SERVICES**

Payable monthly, the rates for City water for private fire services when the use of a meter is not required pursuant to Section 14.12.010 of the Santa Barbara Municipal Code shall be as follows:

<u>Size of Service</u>	<u>Monthly Rate</u>
1"	\$2.76
1 ½"	\$3.64
2"	\$5.16
4"	\$19.99
6"	\$53.67
8"	\$111.77
10"	\$199.17

12"

\$320.29

Upon a determination that unauthorized use of water through a fire service or other private main connection has occurred, the Director may assess a fee for each HCF of such use at a rate equal to twice the rate for the first block allotment for Commercial customers.

**3. WATER SERVICE CONNECTIONS**

All determinations of the size and location of water service connections, water main connections, and meters shall be subject to the approval of the Director. All water service connections must be installed per City standard details. If not, the customer shall be charged at a time and materials basis for the service to be brought up to City standards. The Director may waive the fee for a service connection or main connection to the recycled water system upon a finding that such connection will promote the efficient and beneficial use of recycled water and will displace existing usage of the City's potable water supply. Fees related to water service connection to the City water system are as follows and are in addition to buy-in fees established by the City Council in separate resolutions:

**A. RETAIL WATER SERVICE CONNECTIONS**

Payable at the time of request, service fees for new service connections to the City water system and for water service relocations shall be as follows:

<u>Type of Service Connection</u>	<u>Cost</u>
Add (1) additional 5/8" or 3/4" meter to an existing 1" service, where feasible:	\$1,225
1" service with a 5/8" meter:	\$3,692
1" service with a 3/4" meter:	\$3,724
1" service with a 1" meter:	\$3,746
2" service with a 1 1/2" meter:	\$5,721
2" service with a 2" meter:	\$5,806
1" service & manifold with two 5/8" meters installed at the time of manifold installation:	\$3,830
Add (1) additional 5/8", 3/4", 1" or 1 1/2" meter to an existing 2" service, where feasible:	\$ 1,225 per meter
2" service & manifold with multiple meters installed at the time of manifold installation:	\$ 5,461 plus:

5/8" meters (# of meters per manifold outlined in table below): \$ 290per meter

3/4" meters (# of meters per manifold outlined below): \$ 322 per meter

1" meters (# of meters per manifold outlined below): \$ 574 per meter

1 1/2" meters (# of meters per manifold outlined below): \$ 712 per meter

Over 2" service: Sum of Connection Fee and Meter Set Fee

Abandon service \$1,314.33 per service

Any new service installations that are greater than 4 feet deep and/or require a service trench longer than 20 feet shall be charged an additional time and materials fee.

1 1/2", 1", 3/4" and 5/8" Meter Combinations Allowed on 2" Manifolds			
# of 1 1/2" Meters	# of 1 " Meters	# of 3/4" Meters	# of 5/8" Meters
0	0	5	0
		4	2
		3	3
		2	5
		1	6
		0	8
1	0	2	0
		1	1
		0	3
1	1	0	0
0	1	1	4
		1	3
		2	2

		3	1
		3	0
0	2	0	3
		1	1
		2	0
0	3	0	0

A water service relocation of up to 5 feet or the addition of a meter to a service connection that has an existing meter, except as provided above, shall be charged at the cost of labor and materials plus overhead, provided that installation of a new service connection is not required. Water service relocations of greater than 5 feet shall require installation of a new service connection at fees as specified herein.

For 1" and 2" service connections and manifolds, subject to the prior approval of the Director, a credit of \$933 against the otherwise applicable service connection fee may be applied when said service connection is to be installed by the City simultaneously with and in the same customer-excavated trench as a private fire line or private water main.

**B. FIRELINE AND PRIVATE WATER MAIN CONNECTIONS**

Payable at the time of request, fees for water service main connections to the City water system, including private fire lines and other private mains, shall be as follows and shall be in addition to any applicable fees for trench inspections and encroachment permits:

CONNECTION SIZE	CONNECTION FEE
4" MAIN (OR SMALLER)	
2"	\$1,245
4"	\$2,076
6" MAIN	
2"	\$1,245
4"	\$2,209
6"	\$2,437
8" MAIN	
2"	\$1,245
4"	\$1,776
6"	\$2,608
8"	\$3,208
10" MAIN	
2"	\$1,245

4"	\$1,779
6"	\$2,704
8"	\$2,969
10"	\$3,543
12" MAIN	
2"	\$1,245
4"	\$1,819
6"	\$1,942
8"	\$3,119
10"	\$3,738
12"	\$3,840

Fees for other combinations shall be charged at the cost of labor and materials, plus overhead. The fees for water service main connections shall include only the materials (tee, valve, and valve box) and labor for tapping into the City water system. Contractor is responsible for excavation of the existing water main, traffic control, pipe extension, backfilling, paving, backflow device with in-line detector meter and any other costs. In the event the existing water main or water service main connection is damaged during attachment, an additional fee of \$200 per lineal foot of water line needing repair or replacement shall be charged to the person(s) who caused such damage.

### C. REVIEW AND INSPECTION FEES

#### 1. WATER DISTRIBUTION

#### Amount

Plan Review Fee	\$115/hour
Pre Work Order Inspection Fee	\$216/visit
Inspection Fee	\$216/visit

#### 2. BACKFLOW ASSEMBLIES

Backflow assemblies are required for all private fireline connections and fire sprinklers, all private water main connections, all dedicated irrigation meters, and as dictated by the City building codes. Backflow devices shall be tested immediately after they are installed and then annually by a certified backflow tester. Payable at time of request, fee for plan review shall be as follows:

<u>Description</u>	<u>Amount</u>
Backflow Plan Review – Firelines & Private Mains	\$114
Backflow Plan Review – Retail Meters	\$57
Backflow Inspection – Firelines & Private Mains	\$495
Backflow Inspection – Retail Meters	\$229
Enforcement Fee – 3 <sup>rd</sup> Notice to Test	\$97

Enforcement Fee – Shutoff/Turn-on

\$197

**4. SETTING AND PULLING OF WATER METERS, TEMPORARY FIRE HYDRANT METERS AND TEMPORARY RECYCLED WATER METERS**

Fees related to setting and pulling of water meters, temporary fire hydrant meters and temporary recycled water meters shall be as follows:

A. Payable at the time of request, service fees for meter setting and/or pulling pursuant to Section 14.08.080 of the Santa Barbara Municipal Code:

<u>Description</u>	<u>Amount</u>
1. Meter set where service connection and lateral are already in place:	
5/8" meter	\$ 145
3/4" meter	\$ 176
1" meter	\$ 428
1 1/2" meter	\$ 566
2" meter	\$ 651
3" meter and above	Time and Materials
2. Reduction in meter size:	
Reduction from 1" or 3/4" to 3/4" or 5/8"	\$ 184
Reduction from 1 1/2" or 2" to 1 1/2", 1", or 5/8" or 3/4"	\$ 370
Other reductions	Time and Materials
3. Increase in meter size: An enlargement of water service pipes and meters shall be charged at the time of request at the regular charges set by Resolution pursuant to Section 14.08.050 of the Santa Barbara Municipal Code.	
4. Replacement of an existing meter with a meter of larger size, where a larger service to the meter in not required:	

<u>Size of New Meter</u>	<u>Amount</u>
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¾" or 1" meter	\$ 740
1½" meter	\$1,065
2" meter	\$1,426
Other increases	Cost plus overhead

B. Payable upon demand, pursuant to Section 14.25.060 of the Santa Barbara Municipal Code, the following fees and deposits shall be assessed and collected for water usage from temporary fire hydrant meters:

<u>Description</u>	<u>Amount</u>
1. Deposit (collected prior to meter installation)	
3" meter	\$1,800.00
Any other equipment	\$ 69.00
2. Fee to install and remove a temporary fire hydrant meter:	
3" meter	\$ 71.00
3. Daily meter rental fee	\$ 8.25
4. Metered water	Charged at the prevailing first block rate for commercial customers
5. Water sold via temporary fire hydrant meters cannot be re-sold to any private entity or used outside of City water service area.	
6. A minimum charge of \$100.00 will be deducted from the meter deposit for assumed water use if the meter is returned in an inoperable or damaged condition.	

C. Pursuant to Section 14.25.060 of the Santa Barbara Municipal Code, the temporary use of a meter providing recycled water shall be charged at the same rates as for a temporary fire hydrant meter, except that the metered water cost shall be charged at the prevailing unit rate for recycled water customers.

**5. EFFECTIVE DATE**

Rates and charges specified herein shall be effective immediately.



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016  
**TO:** Mayor and Councilmembers  
**FROM:** Planning Division, Community Development Department  
**SUBJECT:** Development Impact Fees

**RECOMMENDATION:** That Council:

- A. Discuss the potential merits and drawbacks of development impact fees; and
- B. Direct staff on the process to bring the item back to Council, if needed.

### **DISCUSSION:**

At the June 1, 2016 Council meeting, staff was directed to return with information for Council to consider whether or not development impact fees should be established in the City.

#### Purpose of Development Impact Fees

A development impact fee is a monetary exaction (other than a tax or special assessment) charged by a local government to an applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public improvements, public services, and community amenities related to the project (Gov. Code § 66000(b) & (d).) A development impact fee is not a tax or special assessment; it is voluntary, charged only to new development, designed and used to fund new capital improvements, public services and community amenities needed to serve development, and must be reasonably related to the cost of the improvement, service, or amenity provided by the local agency. As shown in Attachment 1, the legal requirements for enactment of development impact fees are set forth in the "Mitigation Fee Act" under the Government Code.

Development impact fees are typically applied to every new development where new capital improvements, public services or community amenities are required to serve the new land use, though exceptions can be made for certain types, such as affordable housing. State enabling legislation influences the kind of impact fees that local governments can charge. In California, the types of facilities that are eligible for impact fees include affordable housing, roads, water, sewer, storm water, parks, fire, police, library, solid waste, and schools. Impact fees are assessed based on the facility demand of the proposed use as measured by its type, size, and location. Residential

uses are usually differentiated by type or size of unit, and non-residential uses by amount of floor area.

Residential development is typically subject to all development impact fees adopted for a jurisdiction, in varying degrees (per-unit costs of a multi-unit development are typically less than the per-unit cost of a single-family development), while nonresidential development are typically exempt from parks, library, and school impact fees.

Adoption of impact fees reduces pressure on local jurisdictions to raising taxes and fees. With new development paying for its own capacity-enhancing infrastructure and other needs, any current funds that have been designated to pay for those projects can be shifted to the more immediate needs of existing residents, such as facility or infrastructure maintenance and rehabilitation.

#### Local Examples of Development Impact Fees

Currently, the only DIF applicable in the City is a School Impact Fee. While originally a local impact fee, state law changed many years ago to allow school districts to collect these fees directly at a set rate. However, as seen in Attachment 2, the City's General Plan contains several policies and implementation actions related to the potential creation of development impact fees, primarily envisioned for acquisition of new parks and open space areas, and financing capital improvements (Attachment - General Plan Policies Related to Development Impact Fees).

Approximately 85 cities and counties in California charge development impact fees. Locally, the County of Santa Barbara and cities of Goleta and Carpinteria collect these fees. Although a direct comparison of development impact fees among communities is often difficult, two theoretical development projects—a new 2,000 square-foot single-family residence (SFR) on a 10,000 square-foot lot, and a new 5,000 square-foot retail commercial development—are provided as examples below for a general comparison of fees in the three local communities.

Fee Program	Santa Barbara County <sup>1</sup>		City of Goleta		City of Carpinteria	
	SFR	Retail	SFR	Retail	SFR	Retail
Parks	\$11,360	\$9,255	\$10,301	\$7,955	\$6,499 <sup>4</sup>	\$13,700
Transportation	\$14,698	\$386,910	\$15,522	\$15,522/PHT <sup>2</sup>	\$5,890	\$84,300
Library	\$468	\$810	\$441	\$775	N/A	N/A
Storm Drainage	N/A	N/A	N/A	N/A	\$2,201	\$1,321
Public Admin.	\$1,999	\$3,490	\$1,959	\$3,430	\$1,699	\$1,350
Police/Sheriff	\$535	\$1,860	\$504	\$1,760	N/A	N/A
Fire	\$1,196	\$3,905	\$1,180	\$3,850	N/A	N/A
<b>Total Fees</b>	<b>\$30,256</b>	<b>\$406,230</b>	<b>\$29,907</b>	<b>\$17,770 +<sup>3</sup></b>	<b>\$16,289</b>	<b>\$100,671</b>

<sup>1</sup> Santa Barbara County fees quoted are for the Goleta Planning Area

<sup>2</sup> PHT = PM Peak Hour Trips generated pursuant to the current edition of the ITE Trip Generation Manual

<sup>3</sup> Does not include Transportation fee, as the number of PM Peak Hour trips is unknown for this theoretical example

<sup>4</sup> Includes Aquatics Facilities Fee

### Potential Merits and Drawbacks of Development Impact Fees

As generally described above, the primary reason why communities adopt DIFs is because of the financial assurance they provide for the future construction of critical infrastructure and facilities that are required to serve new development. It is frequently heard that “development should pay its own way,” and DIFs are one way to ensure this happens. One could reasonably argue that in communities that do not have sufficient capital facilities and where great potential exists for new and significant redevelopment (i.e. expansion of non-residential square-footage and the addition of new residential units), DIFs can be part of a sound capital improvement program.

However, DIFs can also be viewed as an impediment to development. Typically (and in simplistic terms), when determining whether a new development project makes financial sense, project owners evaluate the estimated total cost to build and the expected income at project occupancy or sale. If it is forecast that a reasonable return on investment cannot be attained, the developer will likely pass on the opportunity.

Under discussion of impediments to construction of affordable housing, the City’s Housing Element states the following:

The City of Santa Barbara is somewhat unusual in that there are no other programmatic impact fees or exactions that are charged to all new residential projects. This is not an oversight. In the past, the City has had traffic improvement and other programmatic assessment fees to address major infrastructure deficiencies. Since the early 1990s, the City’s transportation focus has been on supporting alternative modes of transportation and transit use and not road widening projects. Developing a fee program for transit operating costs is very complicated and yet to be implemented. The City does not currently impose any additional schools, parks or other fees, exactions or assessments on new residential projects.

### Scope and Methodology of Development Impact Fee Studies

Creating a development impact fee program can be a costly and labor-intensive process. A well-developed fee program can generate sufficient funds to adequately mitigate impacts created by new development, while a poorly planned fee program can result in collecting too little money, or charging too much money and exposing an agency to a legal challenge.

Development impact fees are most beneficial to communities that are not largely built out. Because new development cannot be required to pay for existing deficiencies and can only be used for new or acquired infrastructure to support the additional development, impact fees in the City of Santa Barbara may not generate enough

revenue to offset the added development costs for the incremental growth anticipated over the next 20 to 30 years. A fee study can provide this information.

A fee study provides an agency with the factual justification to adopt impact fees and estimates the projected burden that new development will create on the City's infrastructure. It is important to understand first which land uses demand certain public services or infrastructure. Once that is determined, the demand-to-capacity ratios for different capital facilities would be calculated and estimates generated for the cost to meet a prescribed level of service for the anticipated population. Consideration would also be given for any development types that might be exempt from paying impact fees, such as affordable housing projects or other Community Benefit Projects.

If Council directs staff to prepare a fee study, staff would return at a subsequent Council meeting with a draft scope of work for the study prior to releasing a Request for Proposals.

**BUDGET/FINANCIAL INFORMATION:**

A comprehensive development impact fee study would be a major work effort that is best led by an experienced private consultant with substantial work also carried out by staff at all levels in multiple departments. It would take approximately one year and \$50,000-\$75,000 to complete. No funds are budgeted for this effort. If Council directs that work commence immediately, staff anticipates that other current workload priorities would likely be delayed as a result.

**ATTACHMENT:** 1. California Government Code Sections 66000-66014 and 66016-66025 (The Mitigation Fee Act)  
2. General Plan Policies Related to Development Impact Fees

**PREPARED BY:** George Buell, Community Development Director  
Renee Brooke, AICP, City Planner  
Sue Gray, Community Development Business Manager

**SUBMITTED BY:** George Buell, Community Development Director

**APPROVED BY:** City Administrator's Office

## GOVERNMENT CODE

### SECTION 66000-66008

66000. As used in this chapter, the following terms have the following meanings:

(a) "Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

(b) "Fee" means a monetary exaction other than a tax or special assessment, whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in Section 66477, fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements adopted pursuant to Article 2.5 (commencing with Section 65864) of Chapter 4, or fees collected pursuant to agreements with redevelopment agencies that provide for the redevelopment of property in furtherance or for the benefit of a redevelopment project for which a redevelopment plan has been adopted pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).

(c) "Local agency" means a county, city, whether general law or chartered, city and county, school district, special district, authority, agency, any other municipal public corporation or district, or other political subdivision of the state.

(d) "Public facilities" includes public improvements, public services, and community amenities.

66000.5. (a) This chapter, Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020) shall be known and may be cited as the Mitigation Fee Act.

(b) Any action brought in the superior court relating to the Mitigation Fee Act may be subject to a mediation proceeding conducted pursuant to Chapter 9.3 (commencing with Section 66030).

66001. (a) In any action establishing, increasing, or imposing a fee as a condition of approval of a development project by a local agency, the local agency shall do all of the following:

(1) Identify the purpose of the fee.

(2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the public facilities for which the fee is charged.

(3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

(4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

(b) In any action imposing a fee as a condition of approval of a development project by a local agency, the local agency shall determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

(c) Upon receipt of a fee subject to this section, the local agency shall deposit, invest, account for, and expend the fees pursuant to Section 66006.

(d) (1) For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the local agency shall make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

(A) Identify the purpose to which the fee is to be put.

(B) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.

(C) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in paragraph (2) of subdivision (a).

(D) Designate the approximate dates on which the funding referred to in subparagraph (C) is expected to be deposited into the appropriate account or fund.

(2) When findings are required by this subdivision, they shall be made in connection with the public information required by subdivision (b) of Section 66006. The findings required by this subdivision need only be made for moneys in possession of the local agency, and need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date. If the findings are not made as required by this subdivision, the local agency shall refund the moneys in the account or fund as provided in subdivision (e).

(e) Except as provided in subdivision (f), when sufficient funds have been collected, as determined pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 66006, to complete financing on incomplete public improvements identified in paragraph (2) of subdivision (a), and the public improvements remain incomplete, the local agency shall identify, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the construction of the public improvement will be commenced, or shall refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the fee, and any interest accrued thereon. By means consistent with the intent of this section, a local agency may refund the unexpended revenues by direct payment, by providing a temporary suspension of fees, or by any other reasonable means. The determination by the governing body of the local agency of the means by which those revenues are to be refunded is a legislative act.

(f) If the administrative costs of refunding unexpended revenues pursuant to subdivision (e) exceed the amount to be refunded, the local agency, after a public hearing, notice of which has been published pursuant to Section 6061 and posted in three prominent

places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which fees are collected subject to this chapter and which serves the project on which the fee was originally imposed.

(g) A fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.

66002. (a) Any local agency which levies a fee subject to Section 66001 may adopt a capital improvement plan, which shall indicate the approximate location, size, time of availability, and estimates of cost for all facilities or improvements to be financed with the fees.

(b) The capital improvement plan shall be adopted by, and shall be annually updated by, a resolution of the governing body of the local agency adopted at a noticed public hearing. Notice of the hearing shall be given pursuant to Section 65090. In addition, mailed notice shall be given to any city or county which may be significantly affected by the capital improvement plan. This notice shall be given no later than the date the local agency notices the public hearing pursuant to Section 65090. The information in the notice shall be not less than the information contained in the notice of public hearing and shall be given by first-class mail or personal delivery.

(c) "Facility" or "improvement," as used in this section, means any of the following:

(1) Public buildings, including schools and related facilities; provided that school facilities shall not be included if Senate Bill 97 of the 1987-88 Regular Session is enacted and becomes effective on or before January 1, 1988.

(2) Facilities for the storage, treatment, and distribution of nonagricultural water.

(3) Facilities for the collection, treatment, reclamation, and disposal of sewage.

(4) Facilities for the collection and disposal of storm waters and for flood control purposes.

(5) Facilities for the generation of electricity and the distribution of gas and electricity.

(6) Transportation and transit facilities, including but not limited to streets and supporting improvements, roads, overpasses, bridges, harbors, ports, airports, and related facilities.

(7) Parks and recreation facilities.

(8) Any other capital project identified in the capital facilities plan adopted pursuant to Section 66002.

66003. Sections 66001 and 66002 do not apply to a fee imposed pursuant to a reimbursement agreement by and between a local agency and a property owner or developer for that portion of the cost of a public facility paid by the property owner or developer which exceeds the need for the public facility attributable to and reasonably related to the development. This chapter shall become operative on January 1, 1989.

66004. The establishment or increase of any fee pursuant to this chapter shall be subject to the requirements of Section 66018.

66005. (a) When a local agency imposes any fee or exaction as a condition of approval of a proposed development, as defined by Section 65927, or development project, those fees or exactions shall not exceed the estimated reasonable cost of providing the service or facility for which the fee or exaction is imposed.

(b) This section does not apply to fees or monetary exactions expressly authorized to be imposed under Sections 66475.1 and 66477.

(c) It is the intent of the Legislature in adding this section to codify existing constitutional and decisional law with respect to the imposition of development fees and monetary exactions on developments by local agencies. This section is declaratory of existing law and shall not be construed or interpreted as creating new law or as modifying or changing existing law.

66005.1. (a) When a local agency imposes a fee on a housing development pursuant to Section 66001 for the purpose of mitigating vehicular traffic impacts, if that housing development satisfies all of the following characteristics, the fee, or the portion thereof relating to vehicular traffic impacts, shall be set at a rate that reflects a lower rate of automobile trip generation associated with such housing developments in comparison with housing developments without these characteristics, unless the local agency adopts findings after a public hearing establishing that the housing development, even with these characteristics, would not generate fewer automobile trips than a housing development without those characteristics:

(1) The housing development is located within one-half mile of a transit station and there is direct access between the housing development and the transit station along a barrier-free walkable pathway not exceeding one-half mile in length.

(2) Convenience retail uses, including a store that sells food, are located within one-half mile of the housing development.

(3) The housing development provides either the minimum number of parking spaces required by the local ordinance, or no more than one onsite parking space for zero to two bedroom units, and two onsite parking spaces for three or more bedroom units, whichever is less.

(b) If a housing development does not satisfy the characteristics in subdivision (a), the local agency may charge a fee that is proportional to the estimated rate of automobile trip generation associated with the housing development.

(c) As used in this section, "housing development" means a development project with common ownership and financing consisting of residential use or mixed use where not less than 50 percent of the floorspace is for residential use.

(d) For the purposes of this section, "transit station" has the meaning set forth in paragraph (4) of subdivision (b) of Section 65460.1. "Transit station" includes planned transit stations otherwise meeting this definition whose construction is programmed to be completed prior to the scheduled completion and occupancy of the housing development.

(e) This section shall become operative on January 1, 2011.

66006. (a) If a local agency requires the payment of a fee specified in subdivision (c) in connection with the approval of a development project, the local agency receiving the fee shall deposit it with the other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected. Any interest income earned by moneys in the capital facilities account or fund shall also be deposited in that account or fund and shall be expended only for the purpose for which the fee was originally collected.

(b) (1) For each separate account or fund established pursuant to subdivision (a), the local agency shall, within 180 days after the last day of each fiscal year, make available to the public the following information for the fiscal year:

(A) A brief description of the type of fee in the account or fund.

(B) The amount of the fee.

(C) The beginning and ending balance of the account or fund.

(D) The amount of the fees collected and the interest earned.

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.

(H) The amount of refunds made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001.

(2) The local agency shall review the information made available to the public pursuant to paragraph (1) at the next regularly scheduled public meeting not less than 15 days after this information is made available to the public, as required by this subdivision. Notice of the time and place of the meeting, including the address where this information may be reviewed, shall be mailed, at least 15 days prior to the meeting, to any interested party who files a written request with the local agency for mailed notice of the meeting. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(c) For purposes of this section, "fee" means any fee imposed to provide for an improvement to be constructed to serve a development project, or which is a fee for public improvements within the meaning of subdivision (b) of Section 66000, and that is imposed by the local agency as a condition of approving the development project.

(d) Any person may request an audit of any local agency fee or charge that is subject to Section 66023, including fees or charges of

school districts, in accordance with that section.

(e) The Legislature finds and declares that untimely or improper allocation of development fees hinders economic growth and is, therefore, a matter of statewide interest and concern. It is, therefore, the intent of the Legislature that this section shall supersede all conflicting local laws and shall apply in charter cities.

(f) At the time the local agency imposes a fee for public improvements on a specific development project, it shall identify the public improvement that the fee will be used to finance.

66006.5. (a) A city or county which imposes an assessment, fee, or charge, other than a tax, for transportation purposes may, by ordinance, prescribe conditions and procedures allowing real property which is needed by the city or county for local transportation purposes, or by the state for transportation projects which will not receive any federal funds, to be donated by the obligor in satisfaction or partial satisfaction of the assessment, fee, or charge.

(b) To facilitate the implementation of subdivision (a), the Department of Transportation shall do all of the following:

(1) Give priority to the refinement, modification, and enhancement of procedures and policies dealing with right-of-way donations in order to encourage and facilitate those donations.

(2) Reduce or simplify paperwork requirements involving right-of-way procurement.

(3) Increase communication and education efforts as a means to solicit and encourage voluntary right-of-way donations.

(4) Enhance communication and coordination with local public entities through agreements of understanding that address state acceptance of right-of-way donations.

66007. (a) Except as otherwise provided in subdivisions (b) and (g), any local agency that imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first. However, utility service fees may be collected at the time an application for utility service is received. If the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first.

(b) (1) Notwithstanding subdivision (a), the local agency may require the payment of those fees or charges at an earlier time if (A) the local agency determines that the fees or charges will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy or (B)

the fees or charges are to reimburse the local agency for expenditures previously made. "Appropriated," as used in this subdivision, means authorization by the governing body of the local agency for which the fee is collected to make expenditures and incur obligations for specific purposes.

(2) (A) Paragraph (1) does not apply to units reserved for occupancy by lower income households included in a residential development proposed by a nonprofit housing developer in which at least 49 percent of the total units are reserved for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable rent, as defined in Section 50053 of the Health and Safety Code. In addition to the contract that may be required under subdivision (c), a city, county, or city and county may require the posting of a performance bond or a letter of credit from a federally insured, recognized depository institution to guarantee payment of any fees or charges that are subject to this paragraph. Fees and charges exempted from paragraph (1) under this paragraph shall become immediately due and payable when the residential development no longer meets the requirements of this paragraph.

(B) The exception provided in subparagraph (A) does not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.

(c) (1) If any fee or charge specified in subdivision (a) is not fully paid prior to issuance of a building permit for construction of any portion of the residential development encumbered thereby, the local agency issuing the building permit may require the property owner, or lessee if the lessee's interest appears of record, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge, or applicable portion thereof, within the time specified in subdivision (a). If the fee or charge is prorated pursuant to subdivision (a), the obligation under the contract shall be similarly prorated.

(2) The obligation to pay the fee or charge shall inure to the benefit of, and be enforceable by, the local agency that imposed the fee or charge, regardless of whether it is a party to the contract. The contract shall contain a legal description of the property affected, shall be recorded in the office of the county recorder of the county and, from the date of recordation, shall constitute a lien for the payment of the fee or charge, which shall be enforceable against successors in interest to the property owner or lessee at the time of issuance of the building permit. The contract shall be recorded in the grantor-grantee index in the name of the public agency issuing the building permit as grantee and in the name of the property owner or lessee as grantor. The local agency shall record a release of the obligation, containing a legal description of the property, in the event the obligation is paid in full, or a partial release in the event the fee or charge is prorated pursuant to subdivision (a).

(3) The contract may require the property owner or lessee to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit was issued and to provide in the escrow instructions that the fee or charge be paid to the local agency imposing the same from the sale proceeds in escrow prior to disbursing proceeds to the seller.

(d) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay

for the cost of enforcement of local ordinances or state law.

(e) "Final inspection" or "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 edition.

(f) Methods of complying with the requirement in subdivision (b) that a proposed construction schedule or plan be adopted, include, but are not limited to, (1) the adoption of the capital improvement plan described in Section 66002, or (2) the submittal of a five-year plan for construction and rehabilitation of school facilities pursuant to subdivision (c) of Section 17017.5 of the Education Code.

(g) A local agency may defer the collection of one or more fees up to the close of escrow. This subdivision shall not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.

66008. A local agency shall expend a fee for public improvements, as accounted for pursuant to Section 66006, solely and exclusively for the purpose or purposes, as identified in subdivision (f) of Section 66006, for which the fee was collected. The fee shall not be levied, collected, or imposed for general revenue purposes.

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## GOVERNMENT CODE

### SECTION 66012-66014

66012. (a) Notwithstanding any other provision of law which prescribes an amount or otherwise limits the amount of a fee or charge which may be levied by a city, county, or city and county, a city, county, or city and county shall have the authority to levy any fee or charge in connection with the operation of an aerial tramway within its jurisdiction.

(b) If any person disputes whether a fee or charge levied pursuant to subdivision (a) is reasonable, the auditor, or if there is no auditor, the fiscal officer, of the city, county, or city and county shall, upon request of the legislative body of the city, county, or city and county, conduct a study and determine whether the fee or charge is reasonable.

66013. (a) Notwithstanding any other provision of law, when a local agency imposes fees for water connections or sewer connections, or imposes capacity charges, those fees or charges shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed, unless a question regarding the amount of the fee or charge imposed in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue.

(b) As used in this section:

(1) "Sewer connection" means the connection of a structure or project to a public sewer system.

(2) "Water connection" means the connection of a structure or project to a public water system, as defined in subdivision (f) of Section 116275 of the Health and Safety Code.

(3) "Capacity charge" means a charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of the local agency involving capital expense relating to its use of existing or new public facilities. A "capacity charge" does not include a commodity charge.

(4) "Local agency" means a local agency as defined in Section 66000.

(5) "Fee" means a fee for the physical facilities necessary to make a water connection or sewer connection, including, but not limited to, meters, meter boxes, and pipelines from the structure or project to a water distribution line or sewer main, and that does not exceed the estimated reasonable cost of labor and materials for installation of those facilities.

(6) "Public facilities" means public facilities as defined in Section 66000.

(c) A local agency receiving payment of a charge as specified in paragraph (3) of subdivision (b) shall deposit it in a separate capital facilities fund with other charges received, and account for the charges in a manner to avoid any commingling with other moneys of the local agency, except for investments, and shall expend those charges solely for the purposes for which the charges were collected.

Any interest income earned from the investment of moneys in the capital facilities fund shall be deposited in that fund.

(d) For a fund established pursuant to subdivision (c), a local agency shall make available to the public, within 180 days after the last day of each fiscal year, the following information for that fiscal year:

(1) A description of the charges deposited in the fund.

(2) The beginning and ending balance of the fund and the interest earned from investment of moneys in the fund.

(3) The amount of charges collected in that fiscal year.

(4) An identification of all of the following:

(A) Each public improvement on which charges were expended and the amount of the expenditure for each improvement, including the percentage of the total cost of the public improvement that was funded with those charges if more than one source of funding was used.

(B) Each public improvement on which charges were expended that was completed during that fiscal year.

(C) Each public improvement that is anticipated to be undertaken in the following fiscal year.

(5) A description of each interfund transfer or loan made from the capital facilities fund. The information provided, in the case of an interfund transfer, shall identify the public improvements on which the transferred moneys are, or will be, expended. The information, in the case of an interfund loan, shall include the date on which the loan will be repaid, and the rate of interest that the fund will receive on the loan.

(e) The information required pursuant to subdivision (d) may be included in the local agency's annual financial report.

(f) The provisions of subdivisions (c) and (d) shall not apply to any of the following:

(1) Moneys received to construct public facilities pursuant to a contract between a local agency and a person or entity, including, but not limited to, a reimbursement agreement pursuant to Section 66003.

(2) Charges that are used to pay existing debt service or which are subject to a contract with a trustee for bondholders that requires a different accounting of the charges, or charges that are used to reimburse the local agency or to reimburse a person or entity who advanced funds under a reimbursement agreement or contract for facilities in existence at the time the charges are collected.

(3) Charges collected on or before December 31, 1998.

(g) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion imposing a fee or capacity charge subject to this section shall be brought pursuant to Section 66022.

(h) Fees and charges subject to this section are not subject to the provisions of Chapter 5 (commencing with Section 66000), but are subject to the provisions of Sections 66016, 66022, and 66023.

(i) The provisions of subdivisions (c) and (d) shall only apply to capacity charges levied pursuant to this section.

66014. (a) Notwithstanding any other provision of law, when a local agency charges fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings under the Cortese-Knox-Hertzberg Local Government

Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5; the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7; or planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 or under any other authority; those fees may not exceed the estimated reasonable cost of providing the service for which the fee is charged, unless a question regarding the amount of the fee charged in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue.

(b) The fees charged pursuant to subdivision (a) may include the costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations.

(c) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion authorizing the charge of a fee subject to this section shall be brought pursuant to Section 66022.

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## GOVERNMENT CODE

### SECTION 66016-66019

66016. (a) Prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge, a local agency shall hold at least one open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service. At least 10 days prior to the meeting, the local agency shall make available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including General Fund revenues. Unless there has been voter approval, as prescribed by Section 66013 or 66014, no local agency shall levy a new fee or service charge or increase an existing fee or service charge to an amount which exceeds the estimated amount required to provide the service for which the fee or service charge is levied. If, however, the fees or service charges create revenues in excess of actual cost, those revenues shall be used to reduce the fee or service charge creating the excess.

(b) Any action by a local agency to levy a new fee or service charge or to approve an increase in an existing fee or service charge shall be taken only by ordinance or resolution. The legislative body of a local agency shall not delegate the authority to adopt a new fee or service charge, or to increase a fee or service charge.

(c) Any costs incurred by a local agency in conducting the meeting or meetings required pursuant to subdivision (a) may be recovered from fees charged for the services which were the subject of the meeting.

(d) This section shall apply only to fees and charges as described in Sections 51287, 56383, 65104, 65456, 65584.1, 65863.7, 65909.5, 66013, 66014, and 66451.2 of this code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code.

(e) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion levying a fee or service charge subject to this section shall be brought pursuant to Section 66022.

66017. (a) Any action adopting a fee or charge, or increasing a fee or charge adopted, upon a development project, as defined in Section 66000, which applies to the filing, accepting, reviewing, approving, or issuing of an application, permit, or entitlement to use shall be

enacted in accordance with the notice and public hearing procedures specified in Section 54986 or 66016 and shall be effective no sooner than 60 days following the final action on the adoption of the fee or charge or increase in the fee or charge.

(b) Without following the procedure otherwise required for the adoption of a fee or charge, or increasing a fee or charge, the legislative body of a local agency may adopt an urgency measure as an interim authorization for a fee or charge, or increase in a fee or charge, to protect the public health, welfare and safety. The interim authorization shall require four-fifths vote of the legislative body for adoption. The interim authorization shall have no force or effect 30 days after its adoption. The interim authority shall contain findings describing the current and immediate threat to the public health, welfare, and safety. After notice and public hearing pursuant to Section 54986 or 66016, the legislative body may extend the interim authority for an additional 30 days. Not more than two extensions may be granted. Any extension shall also require a four-fifths vote of the legislative body.

66018. (a) Prior to adopting an ordinance, resolution, or other legislative enactment adopting a new fee or approving an increase in an existing fee to which this section applies, a local agency shall hold a public hearing, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, shall be published in accordance with Section 6062a.

(b) Any costs incurred by a local agency in conducting the hearing required pursuant to subdivision (a) may be recovered as part of the fees which were the subject of the hearing.

(c) This section applies only to the adopting or increasing of fees to which a specific statutory notice requirement, other than Section 54954.2, does not apply.

(d) As used in this section, "fees" do not include rates or charges for water, sewer, or electrical service.

66018.5. "Local agency," as used in this chapter, has the same meaning as provided in Section 66000.

66019. (a) As used in this section:

(1) "Fee" means a fee as defined in Section 66000, but does not include any of the following:

(A) A fee authorized pursuant to Section 66013.

(B) A fee authorized pursuant to Section 17620 of the Education Code, or Sections 65995.5 and 65995.7.

(C) Rates or charges for water, sewer, or electrical services.

(D) Fees subject to Section 66016.

(2) "Party" means a person, entity, or organization representing a group of people or entities.

(3) "Public facility" means a public facility as defined in Section 66000.

(b) For any fee, notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this subdivision is available

shall be mailed at least 14 days prior to the first meeting to an interested party who files a written request with the city, county, or city and county for mailed notice of a meeting on a new or increased fee to be enacted by the city, county, or city and county. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body of the city, county, or city and county may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service. The legislative body may send the notice electronically. At least 10 days prior to the meeting, the city, county, or city and county shall make available to the public the data indicating the amount of cost, or the estimated cost, required to provide the public facilities and the revenue sources anticipated to fund those public facilities, including general fund revenues. The new or increased fee shall be effective no earlier than 60 days following the final action on the adoption or increase of the fee, unless the city, county, or city and county follows the procedures set forth in subdivision (b) of Section 66017.

(c) If a city, county, or city and county receives a request for mailed notice pursuant to this section, or a local agency receives a request for mailed notice pursuant to Section 66016, the city, county, or city and county or other local agency may provide the notice via electronic mail for those who specifically request electronic mail notification. A city, county, city or county, or other local agency that provides electronic mail notification pursuant to this subdivision shall send the electronic mail notification to the electronic mail address indicated in the request. The electronic mail notification authorized by this subdivision shall operate as an alternative to the mailed notice required by this section.

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## GOVERNMENT CODE

### SECTION 66020-66025

66020. (a) Any party may protest the imposition of any fees, dedications, reservations, or other exactions imposed on a development project, as defined in Section 66000, by a local agency by meeting both of the following requirements:

(1) Tendering any required payment in full or providing satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.

(2) Serving written notice on the governing body of the entity, which notice shall contain all of the following information:

(A) A statement that the required payment is tendered or will be tendered when due, or that any conditions which have been imposed are provided for or satisfied, under protest.

(B) A statement informing the governing body of the factual elements of the dispute and the legal theory forming the basis for the protest.

(b) Compliance by any party with subdivision (a) shall not be the basis for a local agency to withhold approval of any map, plan, permit, zone change, license, or other form of permission, or concurrence, whether discretionary, ministerial, or otherwise, incident to, or necessary for, the development project. This section does not limit the ability of a local agency to ensure compliance with all applicable provisions of law in determining whether or not to approve or disapprove a development project.

(c) Where a reviewing local agency makes proper and valid findings that the construction of certain public improvements or facilities, the need for which is directly attributable to the proposed development, is required for reasons related to the public health, safety, and welfare, and elects to impose a requirement for construction of those improvements or facilities as a condition of approval of the proposed development, then in the event a protest is lodged pursuant to this section, that approval shall be suspended pending withdrawal of the protest, the expiration of the limitation period of subdivision (d) without the filing of an action, or resolution of any action filed. This subdivision confers no new or independent authority for imposing fees, dedications, reservations, or other exactions not presently governed by other law.

(d) (1) A protest filed pursuant to subdivision (a) shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees, dedications, reservations, or other exactions to be imposed on a development project. Each local agency shall provide to the project applicant a notice in writing at the time of the approval of the project or at the time of the imposition of the fees, dedications, reservations, or other exactions, a statement of the amount of the fees or a description of the dedications, reservations, or other exactions, and notification that the 90-day approval period in which the applicant may protest has begun.

(2) Any party who files a protest pursuant to subdivision (a) may file an action to attack, review, set aside, void, or annul the imposition of the fees, dedications, reservations, or other exactions imposed on a development project by a local agency within 180 days after the delivery of the notice. Thereafter, notwithstanding any

other law to the contrary, all persons are barred from any action or proceeding or any defense of invalidity or unreasonableness of the imposition. Any proceeding brought pursuant to this subdivision shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain, forcible entry, and unlawful detainer proceedings.

(e) If the court finds in favor of the plaintiff in any action or proceeding brought pursuant to subdivision (d), the court shall direct the local agency to refund the unlawful portion of the payment, with interest at the rate of 8 percent per annum, or return the unlawful portion of the exaction imposed.

(f) (1) If the court grants a judgment to a plaintiff invalidating, as enacted, all or a portion of an ordinance or resolution enacting a fee, dedication, reservation, or other exaction, the court shall direct the local agency to refund the unlawful portion of the payment, plus interest at an annual rate equal to the average rate accrued by the Pooled Money Investment Account during the time elapsed since the payment occurred, or to return the unlawful portion of the exaction imposed.

(2) If an action is filed within 120 days of the date at which an ordinance or resolution to establish or modify a fee, dedication, reservation, or other exactions to be imposed on a development project takes effect, the portion of the payment or exaction invalidated shall also be returned to any other person who, under protest pursuant to this section and under that invalid portion of that same ordinance or resolution as enacted, tendered the payment or provided for or satisfied the exaction during the period from 90 days prior to the date of the filing of the action which invalidates the payment or exaction to the date of the entry of the judgment referenced in paragraph (1).

(g) Approval or conditional approval of a development occurs, for the purposes of this section, when the tentative map, tentative parcel map, or parcel map is approved or conditionally approved or when the parcel map is recorded if a tentative map or tentative parcel map is not required.

(h) The imposition of fees, dedications, reservations, or other exactions occurs, for the purposes of this section, when they are imposed or levied on a specific development.

66021. (a) Any party on whom a fee, tax, assessment, dedication, reservation, or other exaction has been imposed, the payment or performance of which is required to obtain governmental approval of a development, as defined by Section 65927, or development project, may protest the establishment or imposition of the fee, tax, assessment, dedication, reservation, or other exaction as provided in Section 66020.

(b) The protest procedures of subdivision (a) do not apply to the protest of any tax or assessment (1) levied pursuant to a principal act that contains protest procedures, or (2) that is pledged to secure payment of the principal of, or interest on, bonds or other public indebtedness.

66022. (a) Any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion adopting a new fee or service charge, or modifying or amending an existing fee or service charge, adopted by a local agency, as defined in Section 66000, shall be commenced within 120 days of the effective date of

the ordinance, resolution, or motion.

If an ordinance, resolution, or motion provides for an automatic adjustment in a fee or service charge, and the automatic adjustment results in an increase in the amount of a fee or service charge, any action or proceeding to attack, review, set aside, void, or annul the increase shall be commenced within 120 days of the effective date of the increase.

(b) Any action by a local agency or interested person under this section shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(c) This section shall apply only to fees, capacity charges, and service charges described in and subject to Sections 66013, 66014, and 66016.

66023. (a) Any person may request an audit in order to determine whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product, public facility, as defined in Section 66000, or service provided by the local agency. If a person makes that request, the legislative body of the local agency may retain an independent auditor to conduct an audit to determine whether the fee or charge is reasonable, but is not required to conduct the audit if an audit has been performed for the same fee within the previous 12 months.

(b) To the extent that the audit determines that the amount of any fee or charge does not meet the requirements of this section, the local agency shall adjust the fee accordingly. This subdivision does not apply to a fee authorized pursuant to Section 17620 of the Education Code, or Sections 65995.5 and 65995.7.

(c) The local agency shall retain an independent auditor to conduct an audit only if the person who requests the audit deposits with the local agency the amount of the local agency's reasonable estimate of the cost of the independent audit. At the conclusion of the audit, the local agency shall reimburse unused sums, if any, or the requesting person shall pay the local agency the excess of the actual cost of the audit over the sum which was deposited.

(d) Any audit conducted by an independent auditor to determine whether a fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of providing the product or service shall conform to generally accepted auditing standards.

(e) The procedures specified in this section shall be alternative and in addition to those specified in Section 54985.

(f) The Legislature finds and declares that oversight of local agency fees is a matter of statewide interest and concern. It is, therefore, the intent of the Legislature that this chapter shall supersede all conflicting local laws and shall apply in charter cities.

(g) This section shall not be construed as granting any additional authority to any local agency to levy any fee or charge which is not otherwise authorized by another provision of law, nor shall its provisions be construed as granting authority to any local agency to levy a new fee or charge when other provisions of law specifically prohibit the levy of a fee or charge.

66024. (a) In any judicial action or proceeding to validate, attack, review, set aside, void, or annul any ordinance or resolution providing for the imposition of a development fee by any city, county, or district in which there is at issue whether the

development fee is a special tax within the meaning of Section 50076, the city, county, or district has the burden of producing evidence to establish that the development fee does not exceed the cost of the service, facility, or regulatory activity for which it is imposed.

(b) No party may initiate any action or proceeding pursuant to subdivision (a) unless both of the following requirements are met:

(1) The development fee was directly imposed on the party as a condition of project approval.

(2) At least 30 days prior to initiating the action or proceeding, the party requests the city, county, or district to provide a copy of the documents which establish that the development fee does not exceed the cost of the service, facility, or regulatory activity for which it is imposed. In accordance with Section 6257, the city, county, or district may charge a fee for copying the documents requested pursuant to this paragraph.

(c) For purposes of this section, costs shall be determined in accordance with fundamental fairness and consistency of method as to the allocation of costs, expenses, revenues, and other items included in the calculation.

66025. "Local agency," as used in this chapter, means a local agency as defined in Section 66000.

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## General Plan Policies Related to Development Impact Fees

### Land Use Element

- LG5.2 Open Space. Develop on and off site open space standards for incorporation into the development review process to include:
- Access to adequate public open space within a ½-mile radius; and/or
  - Dedication of sufficient useable open space on-site; and/or
  - A contribution made toward future parks through in-lieu fees.

### Open Space, Parks & Recreation Element

- OP2.1 Acquisition Funding. Establish funding mechanisms (e.g., conservation easements, assessment districts) for preservation of key open space areas including Quimby Act and Park Development Fees to reflect the actual costs of providing such facilities, and actively pursue State, Federal, and private grants to enable acquisition.
- OP2.4 Acquisition of Existing Buildings for Community Use. Establish funding mechanisms for acquisition of existing buildings and property (e.g. Army Reserve National Guard Armory) for community use or establishment of a new community center.

### Economy & Fiscal Health Element

- EF26. Development Impact Fees. To the extent applicable, in order for the community to function more sustainably, new commercial and market-rate residential development and redevelopment shall either avoid impacts on community services and facilities, or contribute financially to the City or other community organizations to mitigate such impacts and costs of providing increased services and facilities.
- EF28. Financing Capital Improvements. The City shall pursue a variety of financing sources for the maintenance and enhancement of capital improvement projects.

#### *Possible Implementation Actions to be Considered*

- EF28.1 Fees. Investigate increasing fees to finance the cost of capital improvements.
- EF28.2 Bonds. Pursue voter approval of general obligation bonds for major capital improvements.
- EF28.3 Impacts to City-Wide Service. Individual projects shall be evaluated for their impacts on the City's ability to provide adequate services and facilities.
- EF28.4 Timing. Services and facilities shall be available for developments prior to approving projects and/or issuing occupancy or use certificates.

## **Circulation Element**

C1.1 Pedestrian and Bicycle Infrastructure. Emphasize high quality public right-of-way infrastructure to include enhanced pedestrian and bicycle facilities.

- Consider adoption of tiered development impact fees (with discounts for community benefit uses) as needed to fund improvements.



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016

**TO:** Mayor and Councilmembers

**FROM:** Finance Department

**SUBJECT:** New Online Payment System For Utility Bills

### **RECOMMENDATION:**

That Council receive a demonstration of the City's new electronic bill presentment and payment services system for utility bills.

### **DISCUSSION:**

#### **Background**

The Finance Department bills and collects revenue for City water, wastewater, and solid waste services. In 2012, the City implemented the Infinity.Link online payment application and partnered with payment processor TransFirst, Inc., which allowed customers to view and pay their water, wastewater, and solid waste bill online.

While the current payment platform is functional, the City identified several additional features that have become standard in the marketplace—features that our customers have come to expect as standard in an online payment processing application. This includes the following: (1) the ability to accept payment from multiple types of platforms, devices, and web browsers; (2) the ability to pay by either credit card or e-check (also known as Electronic Funds Transfer); (3) the ability to schedule payments in the future, and store bank or credit card information; (4) the ability to pay by text or email; and (5) receiving due date reminders and payment receipts by email or text.

The project team issued a request for proposals (RFP) in March 2015 and unanimously chose Invoice Cloud, Inc., based on cost, level of service and system reliability. In January 2016, Council approved a professional services agreement with Invoice Cloud, Inc., for a term of three years with two optional two-year extensions.

#### **Website Implementation Date**

The Invoice Cloud website for the City went live for all utility customers on August 3, 2016. Users can visit the site to initiate one-time payments or can register on the site in

order to make scheduled payments using a credit card or bank account, to sign up for auto-payments or to sign up for paperless billing. In addition, users will now be able to review their bills and make online payments using most major web browsers and via mobile devices. Beginning on August 3, 2016, all registered users will now receive bill notifications and email payment receipts for any online payments.

The project team will continue to evaluate the platform over the next several months, and will implement any added features that will benefit the City's customers.

**PREPARED BY:** Julie Nemes, Treasury Manager

**SUBMITTED BY:** Robert Samario, Finance Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 9, 2016  
**TO:** Mayor and Councilmembers  
**FROM:** City Attorney's Office  
**SUBJECT:** Conference with City Attorney – Anticipated Litigation

### RECOMMENDATION:

That Council hold a closed session to consider significant exposure to litigation (one potential case) pursuant to Government Code sections 54956.9(d)(2) & (e)(1).

**SCHEDULING:** Duration, 30 minutes; anytime  
**REPORT:** None anticipated  
**SUBMITTED BY:** Ariel Calonne, City Attorney  
**APPROVED BY:** City Administrator's Office