



CITY OF WEST COVINA

CITY COUNCIL/SUCCESSOR AGENCY

MAY 5, 2020, 7:00 PM
REGULAR MEETING

CITY HALL COUNCIL CHAMBERS
1444 W. GARVEY AVENUE SOUTH
WEST COVINA, CALIFORNIA 91790

Mayor Tony Wu
Mayor Pro Tem Letty Lopez-Viado
Councilman Dario Castellanos
Councilman Lloyd Johnson
Councilmember Jessica C. Shewmaker

IN ORDER TO REDUCE THE SPREAD OF THE COVID-19 VIRUS, GOVERNOR NEWSOM HAS ISSUED EXECUTIVE ORDERS THAT TEMPORARILY SUSPEND CERTAIN REQUIREMENTS OF THE BROWN ACT AND ALLOW COUNCIL MEMBERS TO ATTEND CITY COUNCIL MEETINGS TELEPHONICALLY. PURSUANT TO THE GOVERNOR'S EXECUTIVE ORDERS AND DUE TO CONCERNS OVER COVID-19, THE CITY COUNCIL MEETING WILL BE CONDUCTED ENTIRELY TELEPHONICALLY.

Public Participation: In accordance with Executive Order N-29-20 and guidance from the California Department of Public Health on gatherings, City Council Chambers will remain closed to the public. Members of the public may participate remotely in the following ways:

Public comments will be accepted via e-mail to the City Clerk at City_Clerk@westcovina.org. The subject line should specify either "Public Comment or Public Hearing – 5/5/2020". Please include your full name and address in your e-mail. The City Clerk will read emails received by 6:30 P.M. the day of the Council meeting out loud into the public record.

If you wish to address the Council by telephone during public comment or a public hearing, you may contact the City Clerk by email City_Clerk@westcovina.org or by telephone (626) 939-8433 by 6:30 P.M. on the day of the Council meeting, to advise the City Clerk that you would like to address the Council during public comment or a public hearing.

Members of the public may watch City Council meetings live through the West Covina City YouTube channel at www.westcovina.org/LIVE. Council meeting videos are also posted to the City's Video Archive on <https://www.westcovina.org/departments/city-clerk/agendas-and-meetings/current-meetings-and-agendas>.

AMERICANS WITH DISABILITIES ACT

The City complies with the Americans with Disabilities Act (ADA). If you will need special assistance at Council meetings, please call (626) 939-8433 (voice) or (626) 960-4422 (TTY) from 8 to 5 Monday through Thursday. Do call at least one day prior to the meeting date to inform us of your particular needs and to determine if accommodation is possible. For sign language interpreter services at Council meetings, please request no less than four working days prior to the meeting.

AGENDA MATERIAL

Agenda material is available for review at the City Clerk's Office, Room 317 in City Hall, 1444 W. Garvey Avenue South, West Covina and at www.westcovina.org. Any writings or documents regarding any item on this agenda, not exempt from public disclosure, provided to a majority of the City Council that is distributed less than 72 hours before the meeting, will be made available for public inspection in the City Clerk's Office, Room 317 of City Hall located at 1444 W. Garvey Avenue South, West Covina, during normal business hours.

NOTICE

The City Council will regularly convene on the first and third Tuesday of the month. The West Covina Community Development Commission, West Covina Public Financing Authority and the West Covina Community Services Foundation are agencies on which the City Council serves as members. Agendas may contain items for these boards, as necessary.

**PUBLIC COMMENTS
ADDRESSING THE CITY COUNCIL
(Per WCMC 2-48, Ordinance No. 2150)**

Any person wishing to address the City Council on any matter listed on the agenda or on any other matter within their jurisdiction should complete a speaker card that is provided at the entrance to the Council Chambers and submit the card to the City Clerk.

Please identify on the speaker card whether you are speaking on an agenda item or non-agenda. Requests to speak on agenda items will be heard prior to requests to speak on non-agenda items. All comments are limited to five (5) minutes per speaker.

Oral Communications may be limited to thirty (30) minutes, unless speakers addressing agenda items have not concluded.

Any testimony or comments regarding a matter set for a Public Hearing will be heard during the hearing.

RULES OF DECORUM

Excerpts from the West Covina Municipal Code and Penal Code pertaining to the Rules of Decorum will be found at the end of agenda.

AGENDA

**CITY OF WEST COVINA
CITY COUNCIL/SUCCESSOR AGENCY**

**TUESDAY MAY 5, 2020, 7:00 PM
REGULAR MEETING**

INVOCATION

Assistant City Manager Mark Persico

PLEDGE OF ALLEGIANCE

Led by Councilman Johnson

ROLL CALL

REPORTING OUT FROM CLOSED SESSION

PROCLAMATIONS:

- Lupus
- Fibromyalgia
- Mental Health

ORAL COMMUNICATIONS - Five (5) minutes per speaker

Please step forward to the podium and state your name and city of residence for the record when recognized by the Mayor.

CITY MANAGER'S REPORT

City Manager's report on current City projects.

CONSENT CALENDAR

All matters listed under CONSENT CALENDAR are considered to be routine and can be acted on by one roll call vote. There will be no separate discussion of these items unless members of the City Council/Community Development Commission request specific items to be removed from the Consent Calendar for separate discussion or action.

APPROVAL OF MEETING MINUTES

- 1) **APRIL 21, 2020 CITY COUNCIL/SUCCESSOR AGENCY REGULAR MEETING MINUTES
APRIL 21, 2020 CITY COUNCIL/SUCCESSOR AGENCY CLOSED SESSION MEETING MINUTES**
It is recommended that the City Council approve the April 21, 2020 Regular Meeting Minutes and the April 21, 2020 Closes Session Meeting Munutes.

COMMISSION SUMMARY OF ACTIONS

- 2) **SUMMARY OF ACTIONS FOR THE COMMUNITY AND SENIOR SERVICES COMMISSION MEETING OF JANUARY 14, 2020.**
It is recommended that the City Council receive and file the Summary of Actions for the January 14, 2020, regular meeting of the Community and Senior Services Commission.

INVESTMENT REPORT

- 3) **CONSIDERATION OF INVESTMENT REPORT FOR THE MONTH ENDED FEBRUARY 29, 2020**
It is recommended that the City Council receive and file the Investment Report for the month ended February 29, 2020.
- 4) **CONSIDERATION OF INVESTMENT REPORT FOR THE MONTH ENDED MARCH 31, 2020**
It is recommended that the City Council receive and file the Investment Report for the month ended March 31, 2020.

CITY MANAGER'S OFFICE

- 5) **CONSIDERATION OF CONTRACT FOR MICROSOFT ENTERPRISE AGREEMENT WITH SOFTWAREONE**
It is recommended that the City Council authorize the City Manager, to execute a three-year agreement, in a form approved by the City Attorney, with SoftwareOne in the amount of \$159,992.47 per year (a total of \$479,977.41) to provide a Microsoft Enterprise Agreement for the City of West Covina based on the terms and conditions of the County of Riverside Master Microsoft Enterprise Agreement #8084445 with Microsoft Corporation.
- 6) **CONSIDERATION OF RESOLUTION NO. 2020-41 EXTENDING THE LOCAL EMERGENCY DECLARATION**
That the City Council adopt Resolution 2020-41 as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DETERMINING THE NEED TO CONTINUE THE LOCAL EMERGENCY PROCLAIMED ON MARCH 16, 2020
- 7) **CONSIDER APPROVAL OF UPDATED BUDGET AND FINANCIAL POLICIES**

It is recommended that the City Council adopt Resolution No. 2020-35 Approving Updated Financial and Budget Policies.

COMMUNITY DEVELOPMENT

8) **CONSIDERATION OF RENEWAL OF LANDSCAPE MAINTENANCE DISTRICT NO. 4 — ORDERING OF ENGINEER'S REPORT AND PRELIMINARY APPROVAL OF THE ENGINEER'S REPORT**

It is recommended that the City Council take the following actions:

1. Adopt the following resolution:

RESOLUTION NO. 2020-27 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 4

2. Following adoption of Resolution No. 2020-27, adopt the following resolution:

RESOLUTION NO. 2020-28 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 4, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

9) **CONSIDERATION OF RENEWAL OF LANDSCAPE MAINTENANCE DISTRICT NO. 6 — ORDERING OF ENGINEER'S REPORT AND PRELIMINARY APPROVAL OF THE ENGINEER'S REPORT**

It is recommended that the City Council take the following actions:

1. Adopt the following resolution:

RESOLUTION NO. 2020-29 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 6

2. Following adoption of Resolution No. 2020-29, adopt the following resolution:

RESOLUTION NO. 2020-30 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 6, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

10) **CONSIDERATION OF RENEWAL OF LANDSCAPE MAINTENANCE DISTRICT NO. 7 — ORDERING OF ENGINEER'S REPORT AND PRELIMINARY APPROVAL OF THE ENGINEER'S REPORT**

It is recommended that the City Council take the following actions:

1. Adopt the following resolution:

RESOLUTION NO. 2020-31 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 7

2. Following adoption of Resolution No. 2020-31, adopt the following resolution:

RESOLUTION NO. 2020-32 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 7, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

11) **CONSIDERATION OF RENEWAL OF THE CITYWIDE LIGHTING AND MAINTENANCE DISTRICT AND PRELIMINARY APPROVAL OF THE ENGINEER'S REPORT**

It is recommended that the City Council take the following actions:

1. Adopt the following resolution:

RESOLUTION NO. 2020-33 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH THE CITY'S CITYWIDE LIGHTING AND MAINTENANCE DISTRICT

2. Following adoption of Resolution No. 2020-33, adopt the following resolution:

RESOLUTION NO. 2020-34 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITYWIDE LIGHTING AND MAINTENANCE DISTRICT, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

12) **CONSIDERATION OF WEST COVINA CITYWIDE SEWER SERVICE CHARGE - RESOLUTION OF INTENTION TO COLLECT SEWER SERVICE CHARGES ON COUNTY TAX ROLL FOR FY 2020-21 AND SETTING A PUBLIC HEARING DATE ON THE CHARGES**

It is recommended that the City Council adopt the following resolution:

RESOLUTION NO. 2020-36 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DECLARING ITS INTENTION TO COLLECT SEWER SERVICE CHARGES ON THE COUNTY TAX ROLL FOR FISCAL YEAR 2020-21 AND SETTING JUNE 16, 2020 FOR A PUBLIC HEARING REGARDING THE CHARGES TO BE SO COLLECTED

HUMAN RESOURCES/RISK MANAGEMENT

13) CONSIDERATION OF AUTHORIZATION TO PARTICIPATE IN THE CALIFORNIA JOINT POWERS AUTHORITY (CJPIA) FOR THE CITY'S GENERAL LIABILITY AND WORKERS' COMPENSATION AND OTHER INSURANCE NEEDS

It is recommended that City Council take the following actions:

1. Authorize the City's withdrawal from the California State Association of Counties (CSAC) Excess Insurance Authority effective July 1, 2020.
2. Authorize the City to join the California Joint Powers Insurance Authority (CJPIA) and pool the City's self-insurance general liability and workers' compensation insurance through the CJPIA programs by adopting the following resolutions:

RESOLUTION NO. 2020-37 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING EXECUTION OF THE JOINT POWERS AGREEMENT CREATING THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY

RESOLUTION NO. 2020-38 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, TO AUTHORIZE AND APPROVE POOLING OF SELF-INSURANCE THROUGH THE EXCESS LIABILITY PROTECTION PROGRAM OF THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY

RESOLUTION NO. 2020-39 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, TO AUTHORIZE AND APPROVE POOLING OF SELF-INSURANCE THROUGH THE EXCESS WORKERS' COMPENSATION PROGRAM OF THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY

RESOLUTION NO. 2020-40 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PROVIDING WORKERS' COMPENSATION COVERAGE FOR CERTAIN CITY OF WEST COVINA VOLUNTEERS PURSUANT TO THE PROVISIONS OF SECTION 3363.5 OF THE LABOR CODE

3. Authorize the City Manager to negotiate and execute the Joint Powers Agreement and any related documents.
4. Authorize the use of CJPIA for the City's other insurance needs, such as property, automobile, cyber and crime and authorize the City Manager to execute any related documents.
5. Authorize the City Manager to negotiate and execute Third-Party Administrator (TPA) Agreements with Carl Warren and Company for General Liability Claims Administration and Sedgwick for Workers' Compensation Claims Administration and any related documents.
6. Authorize the Finance Director to fund and replenish reserve funds for the payment of the self-insured retention (SIR) portion of general liability claims with Carl Warren and Company and Workers' Compensation claims with Sedgwick; and
7. Approve the Certification of Director and Alternate(s) to CJPIA, appointing Councilmember Dario Castellanos as Director, and appointing City Manager David Carmany, Mayor Tony Wu, Mayor Pro Tem Letty Lopez-Viado, Councilmember Lloyd Johnson, and Councilmember Jessica Shewmaker as alternates to represent the City Council.

PUBLIC SERVICES

14) CONSIDERATION OF THE SALE OF SURPLUS VEHICLES AND EQUIPMENT

It is recommended that the City Council, in accordance with West Covina Municipal Code Chapter 2, Article VII, Division I, Section 2-316, authorize the sale of the surplus vehicles listed below by the public auction company US Auctions.

END OF CONSENT CALENDAR

HEARINGS

PUBLIC HEARINGS

15) CONSIDERATION OF CODE AMENDMENT NO. 16-03 - WIRELESS TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY

That Planning Commission recommends that the City Council consider a Zoning Code Amendment as follows:

ORDINANCE NO. 2470 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING CODE AMENDMENT NO. 16-03, RELATED TO WIRELESS TELECOMMUNICATION FACILITIES IN THE PUBLIC RIGHT OF WAY

16) CONSIDERATION OF CODE AMENDMENT NO. 20-02 - COMMERCIAL LAND USES AND STANDARDS

The Planning Commission recommends that the City Council consider a Zoning Code Amendment as follows:

ORDINANCE NO. 2472 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING CODE AMENDMENT NO. 20-02, CODE AMENDMENT RELATED TO COMMERCIAL (NONRESIDENTIAL) USES AND STANDARDS

MAYOR/COUNCILMEMBERS REPORTS

AB 1234 Conference and Meeting Report (verbal, if any)

(In accordance with AB 1234, Councilmembers shall make a brief report or file a written report on any meeting/event/conference attended at City expense.)

CITY COUNCIL REQUESTS FOR REPORTS, STUDIES OR INVESTIGATION

(Per City of West Covina Standing Rules 4.f - Requests for reports, studies, or investigations that are not readily available must be placed on the City Council/Successor Agency agenda as items of business and must be approved by a majority of the City Council/Successor Agency Board.)

CITY COUNCIL COMMENTS

ADJOURNMENT

Next Tentative City Council Meeting

Regular Meeting

5-19-2020

7:00 PM

RULES OF DECORUM

The following are excerpts from the West Covina Municipal Code:

Sec. 2-48. Manner of addressing council; time limit; persons addressing may be sworn.

- a. Each person addressing the council shall step up to the rostrum, shall give his or her name and city of residence in an audible tone of voice for the record and unless further time is granted by the council, shall limit his or her address to five (5) minutes.
- b. The city council may establish a limit on the duration of oral communications.
- c. All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the presiding officer. No question shall be asked of a councilmember except through the presiding officer.
- d. The presiding officer may require any person to be sworn as a witness before addressing the council on any subject. Any such person who, having taken an oath that he or she will testify truthfully, willfully and contrary to such oath states as true any material matter which he knows to be false may be held to answer criminally and subject to the penalty prescribed for perjury by the provisions of the Penal Code of the state.

Sec. 2-50. Decorum--Required.

- a. While the council is in session, the members shall preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or disrupt the proceedings or the peace of the council nor interrupt any member while speaking or refuse to obey the orders of the council or its presiding officer, except as otherwise herein provided.
- b. Members of the public shall not willfully disrupt the meeting or act in a manner that actually impairs the orderly conduct of the meeting. For the purposes of this code, "willfully disrupt" includes, but is not limited to, continuing to do any of the following after being warned by the Mayor that continuing to do so will be a violation of the law:
 - a. Addressing the Mayor and City Council without first being recognized.
 - b. Persisting in addressing a subject or subjects, other than that before the Mayor and City Council.
 - c. Repetitiously addressing the same subject.
 - d. Failing to relinquish the podium when directed to do so.
 - e. From the audience, interrupting or attempting to interrupt, a speaker, the Mayor, a council member, or a staff member or shouting or attempting to shout over a speaker, the Mayor, a council member or a staff member.
 - f. As a speaker, interrupting or attempting to interrupt the Mayor, a council member, or a staff member, or shouting over or attempting to shout over the Mayor, a council member, or a staff member. Nothing in this section or any rules of the council shall be construed to prohibit public criticism of the policies, procedures, programs, or services of the City or of the acts or omissions of the City Council. It shall be unlawful to violate the provisions of this Section.

If any subsection, sentence, clause, or phrase or word of this Section 2-50 is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Section. The City Council hereby declares that it would have passed this section and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses, phrases or words had been declared invalid or unconstitutional.

Sec. 2-52. Persons authorized to be within council area.

No person, except city officials, their representatives and members of the news media shall be permitted within the rail in front of the council chamber without the express consent of the council.

The following are excerpts from the Penal Code

148(a) (1) Every Person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

403 Every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting that is not unlawful in its character, other than an assembly or meeting referred to in Section 303 of the Penal Code or Section 18340 of the Elections Code, is guilty of a misdemeanor.



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

SUBJECT: APRIL 21, 2020 CITY COUNCIL/SUCCESSOR AGENCY REGULAR MEETING MINUTES
APRIL 21, 2020 CITY COUNCIL/SUCCESSOR AGENCY CLOSED SESSION MEETING
MINUTES

RECOMMENDATION:

It is recommended that the City Council approve the April 21, 2020 Regular Meeting Minutes and the April 21, 2020 Closes Session Meeting Minutes.

DISCUSSION:

That the City Council adopt the attached minutes.

Prepared by: Lisa Sherrick, Assistant City Clerk

Attachments

Attachment No. 1 - 04-21-2020 Regular Session Meeting Minutes Draft

Attachment No. 2 - 04-21-2020 Closed Session Meeting Minutes Draft



CITY OF WEST COVINA

**CITY COUNCIL/SUCCESSOR AGENCY/COMMUNITY
DEVELOPMENT COMMISSION**

APRIL 21, 2020, 7:00 PM
REGULAR MEETING

CITY HALL COUNCIL CHAMBERS
1444 W. GARVEY AVENUE SOUTH
WEST COVINA, CALIFORNIA 91790

Mayor Tony Wu
Mayor Pro Tem Letty Lopez-Viado
Councilman Dario Castellanos
Councilman Lloyd Johnson
Councilmember Jessica C. Shewmaker

MINUTES

CALL TO ORDER

A Regular Meeting was called to order by Mayor Wu on Tuesday, April 21, 2020 at 7:37 p.m. in the Council Chamber, 1444 West Garvey Avenue South, West Covina, California.

ROLL CALL

Council Members

Present: Council Members Dario Castellanos, Lloyd Johnson, Jessica Shewmaker,
Mayor Pro Tem Letty Lopez-Viado, Mayor Tony Wu

Council Members

Absent: None

City Staff: David Carmany City Manager, Mark Persico Assistant City Manager, Thomas P. Duarte City Attorney, Lisa Sherrick Assistant City Clerk; other City staff presented reports and responded to questions as indicated in the minutes.

INVOCATION

Led by Assistant City Clerk Lisa Sherrick

PLEDGE OF ALLEGIANCE

Led by Assistant City Manager Mark Persico

REPORTING OUT FROM CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code § 54956.9(d)(1)

1. Franco v. City of West Covina (USDC, Central District of California, Case No. 5:18-cv-02587-JGB-SHK)
2. Palacios v. City of West Covina (USDC, Central District of California, Case No. 2:19-cv-01370 CBM (Ex)
3. Whithorn v. City of West Covina, et al (Superior Court of California, Case No. 20STCV08916

CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code § 54957.6

City Negotiators: Carmany, Duarte

Employee Organizations

- Confidential Employees
- Maintenance & Crafts Employees
- Non-Sworn
- W.C. Police Officers' Association
- W.C. Firefighters' Management Assoc.
- W.C. Firefighters' Association, I.A.F.F., Local 3226
- General Employees
- Mid-Management Employees
- W.C. Police Management Association

Unrepresented Employee Group

- Department Heads

City Attorney Thomas P. Duarte reported regarding Franco, vote 5-0 Council directed staff to pay plaintiff \$4.65 million (the City is responsible for the first million) in exchange plaintiff agreed to dismiss the lawsuit; regarding Palacios, vote 5-0 Council directed staff to pay plaintiff \$550,000 in exchange plaintiff agreed to dismiss the lawsuit.

PRESENTATIONS

- Due to COVID-19 we do not have any presentations.

ORAL COMMUNICATIONS - Five (5) minutes per speaker

Jim Grivich
Colleen Rozatti

CITY MANAGER'S REPORT

- Presentation given by Mr. Carmany

CONSENT CALENDAR

ACTION: MOTION BY COUNCILMAN JOHNSON AND SECONDED BY MAYOR PRO TEM LOPEZ-VIADO, CARRIED 5-0 to: approve Consent Calendar Items 1-10

APPROVAL OF MEETING MINUTES

- 1) **APRIL 7, 2020 CITY COUNCIL/SUCCESSOR AGENCY REGULAR MEETING MINUTES
APRIL 7, 2020 CITY COUNCIL/SUCCESSOR AGENCY CLOSED SESSION MEETING MINUTES**

It is recommended that the City Council approve the April 7, 2020 Regular Meeting Minutes and the April 7, 2020 Closed Session Meeting Minutes.

CARRIED 5-0 to: approve the April 7, 2020 Regular Meeting Minutes and the April 7, 2020 Closed Session Meeting Minutes.

COMMUNITY DEVELOPMENT

- 2) **CONSIDERATION OF APPROVAL OF MEETING MINUTES AND TRAFFIC COMMITTEE RECOMMENDATIONS OF VARIOUS IMPROVEMENTS FROM THE MARCH 10, 2020 TRAFFIC COMMITTEE MEETING**

CARRIED 5-0 to: approve the Traffic Committee recommendations from the March 10, 2020 Traffic Committee Meeting for the following items:

1. New Traffic Committee Items Presented at the March 10, 2020 Traffic Committee Meeting:

- i. **Community Workshop Announcement:** No action required, at the March 10, 2020 TC Meeting, an announcement was given about the City's Community Workshop the City planned to host on Monday, March 16, 2020 at 6:30 p.m. at Cortez Park Senior Center (2501 E Cortez St, West Covina, CA 91791) to discuss the intersection of Citrus Street and Cameron Avenue. Residents living within the area were mailed flyers. ***Please note that this workshop has been postponed to a future to be determined date per CDC and California guidance due to COVID-19.***

- ii. **Traffic Review for Red Curb in front of the Foothill Transit Bus Stop Near Valinda Avenue South of Glendora Avenue**
 - a. **Request:** The West Covina Police Department requested a traffic review of existing parking conditions along Valinda (s/b Valinda) Avenue at Glendora Avenue/West Covina Parkway due to the narrow width of the street.
 - b. **Review Standard:** Recommended improvements and all traffic control devices on public streets are guided by the California Manual on Uniform Traffic Control Devices (CAMUTCD), the California Vehicle Code (CVC) and engineering judgement.
 - c. **Recommendation:** It was unanimously recommended to implement the following improvements: (1) Repaint approximately 100-feet of existing red curb on Valinda Avenue. (2) Paint an additional 120-feet of red curb to extend the existing red curb on Valinda Avenue for a total of approximately 220-feet of red curb.

- iii. **Traffic Review Along Curve at Baymar Avenue and Idahome Street**
 - a. **Request:** A resident submitted a request to conduct a traffic review to evaluate existing conditions at the curve where Baymar Avenue and Idahome Street intersect due (add "to")speeding concerns along the curve.
 - b. **Review Standard:** Recommended improvements for signage, striping and all traffic control devices on public streets are guided by the California Manual on Uniform Traffic Control Devices (CAMUTCD), the California Vehicle Code (CVC) and engineering judgement.
 - c. **Recommendation:** It was unanimously recommended to implement the following improvements: (1) Install approximately 50-foot long center line consisting of a solid double yellow line along the center of the curve at the intersection of Baymar Avenue and Idahome Street. (2) Install Chevron Alignment signs (W1-8) along the curve to provide additional emphasis and guidance for a change in horizontal alignment. The Chevron Alignment sign shall be a vertical rectangle, without a border. Chevron Alignment signs shall be installed on the outside of a turn or curve, in line with and approximately a right angle to approaching traffic. Per

CAMUTCD Section 2C.09, Figure 2C-2. and Table 2C-6. (3) Install Alignment Warning Signs (W1-1) and 15MPH Advisory Speed Plaque (W13-1P). Per CAMUTCD Section 2C.10 and Figure 2C-2. For sign sizes refer to CAMUTCD Table 2C-2. (4) Install approximately 60 feet of red curb at the curve.

iv. **Line of Sight Review at Phillips Avenue East of Workman Avenue**

- a. **Request:** A resident submitted a request to review the existing line of sight at the intersection of Phillips Avenue and Workman Avenue due to restricted view of approaching vehicles from parked vehicles when trying to exit from Phillips Avenue onto Workman Avenue as well as restricted view of pedestrians crossing northbound in the uncontrolled crosswalk at the east leg of the intersection.
- b. **Review Standard:** Per AASHTO Guidelines for Stopping Sight Distance for a design speed of 25 mph, it recommended to have a clear sight distance of 155 feet. Per line of sight triangle appropriate red curb based on this standard is recommended. Recommended signage and crosswalk improvements and all traffic control devices on public streets are guided by the California Manual on Uniform Traffic Control Devices (CAMUTCD), the California Vehicle Code (CVC) and engineering judgement.
- c. **Recommendation:** It was unanimously recommended to implement the following improvements at this intersection: (1) Repaint approximately 10-feet of existing red curb and paint an additional 25-feet of red curb, for a total of 35-feet of red curb, to prohibit parking too close to the marked crosswalk. (2) Install "Yield Here to Pedestrian" (R1-5) signs with advanced marked yield lines in white paint approaching the east leg uncontrolled crosswalk for both approaches approximately 20-feet to 60-feet from the crosswalk. (3) Install School Warning Assembly (SW24-1) sign approaching the east leg uncontrolled crosswalk for the eastbound approach approximately 100-feet to 200-feet from the crosswalk. (4) Repaint existing School Crosswalk located in the south leg with a Yellow ladder pattern to match the crosswalk in the east leg of the intersection at all times.

3) **CONSIDERATION OF MEMORANDUM OF UNDERSTANDING BETWEEN THE CITIES OF WEST COVINA AND COVINA FOR THE CONSTRUCTION AND MAINTENANCE OF UPDATED PEDESTRIAN SIGNAGE AND STRIPING, AND CROSSWALK REMOVAL AND RELOCATION AT THE INTERSECTION OF LARK ELLEN AVENUE AND GROVECENTER STREET**

CARRIED 5-0 to: approve the following recommendation:

1. Authorize the City Manager to negotiate and execute a Memorandum of Understanding (MOU) with the City of Covina for the construction and

maintenance of pedestrian/school crossing facilities on Lark Ellen Avenue and Grovecenter Street, with costs shared equally between the two cities;

2. Authorize the installation of a street light as part of the project, the cost of which will be borne solely by West Covina; and
3. Authorize the City Manager to execute any amendments to the MOU, provided that any increase in the City's contribution for the improvements is consistent with any construction agreement approved by the City Council for such improvements.

4) Consideration of Contract Award for Loan Servicing for Housing Loan Program

CARRIED 5-0 to: award the housing loan servicing agreement to AmeriNational Community Services, LLC dba AmeriNat for loan servicing for the housing loan programs and authorize the Executive Director to execute the agreement.

5) CONSIDERATION OF APPROVAL OF PROFESSIONAL SERVICES AGREEMENT FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT COMPLIANCE SERVICES (SPEC. NO. 71-006)

CARRIED 5-0 to: authorize the following actions:

1. Authorize the City Manager to negotiate and execute a Professional Services Agreement with John L. Hunter & Associates, Inc., effective July 1, 2020, in an annual amount not to exceed \$90,000 for National Pollutant Discharge Elimination System (NPDES) Permit Compliance Services; and
2. Authorize the City Manager to negotiate and execute an extension of the current Professional Services Agreement term with John L. Hunter & Associates, Inc. through June 30, 2020.

6) Consideration of San Gabriel Valley Regional Housing Trust Joint Exercise of Powers Agreement

CARRIED 5-0 to: authorize the following actions:

Authorize the City Manager to negotiate and execute the San Gabriel Valley Regional Housing Trust Joint Exercise of Powers Agreement and any other documents necessary to join the San Gabriel Valley Regional Housing Trust Fund.

It is recommended that the Community Development Commission: Authorize the payment of the administrative fee required by the San Gabriel Valley Regional Housing Trust Joint Exercise of Powers Agreement.

FINANCE DEPARTMENT

7) SECOND QUARTER FINANCIAL REPORT FOR FISCAL YEAR 2019-20

CARRIED 5-0 to: authorize the following actions:

1. Receive and file the Second Quarter Financial Report for Fiscal Year 2019-20;
and
2. Adopt the following resolution:

RESOLUTION NO. 2020-20 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ADOPTING A BUDGET AMENDMENT FOR THE FISCAL YEAR COMMENCING JULY 1, 2019, AND ENDING JUNE 30, 2020 (Second Quarter Financial Report)

HUMAN RESOURCES/RISK MANAGEMENT

8) CONSIDERATION OF GOVERNMENT TORT CLAIMS

CARRIED 5-0 to: deny the following Government Tort Claims and the claimants to be notified:

1. Ileana Mendez vs. City of West Covina
2. Allstate Insurance ASO Ileana Mendez vs. City of West Covina
3. Laureen Frausto vs. City of West Covina

POLICE DEPARTMENT

9) CONSIDERATION OF PURCHASE OF CELL-PHONE BASED CITATION SYSTEM

CARRIED 5-0 to: authorize the following action:

Authorize the purchase of an IOS Citation System directly from Crossroads Software of Brea, CA, for a total of \$37,100, using previously appropriated federal asset forfeiture funds.

PUBLIC SERVICES

10) CONSIDERATION OF PURCHASE ORDER WITH BIO CLEAN FOR INSTALLATION OF ADDITIONAL CATCH BASIN FULL TRASH CAPTURE DEVICES

CARRIED 5-0 to: authorize staff to issue a purchase order to Bio Clean, a Forterra Company, in the amount of \$56,439.30 for the purchase and installation of additional catch basin inserts at various locations in the City.

END OF CONSENT CALENDAR

HEARINGS

PUBLIC HEARINGS

11) PUBLIC HEARING TO CONSIDER CODE AMENDMENT NO. 20-01 FOR FILM PERMIT STANDARDS

ACTION: MOTION BY COUNCILMAN CASTELLANOS AND SECONDED BY MAYOR PRO TEM LOPEZ-VIADO, CARRIED 4-1 (NO: JOHNSON) to: return the item back to Planning Commission return to Council with additional information.

ORDINANCE NO. 2471 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING CODE AMENDMENT NO. 20-01, RELATED TO FILM PERMIT STANDARDS

12) CONSIDERATION OF PROPOSED AMENDMENTS TO THE COMMUNITY DEVELOPMENT BLOCK GRANT FY 2015-2020 CONSOLIDATED PLAN, FY 2019-2020 ACTION PLAN, AND CITIZEN PARTICIPATION PLAN AND APPROVAL OF AGREEMENT WITH ALTAMED FOR COVID-19 TESTING

ACTION: MOTION BY COUNCILMAN JOHNSON AND SECONDED BY MAYOR PRO TEM LOPEZ-VIADO, CARRIED 5-0 to: authorize the City Council take the following actions:

1. Approve the proposed amendments to the CDBG FY 2015-2020 Consolidated Plan, FY 2019-2020 Action Plan, and Citizen Participation Plan;
2. Ratify the agreement with AltaMed Health Services Corporation for a grant of up to \$187,500 for COVID-19 testing operations; and
3. Approve the following Resolution:

RESOLUTION NO. 2020-25 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ADOPTING A BUDGET AMENDMENT FOR THE FISCAL YEAR COMMENCING JULY 1, 2019 AND ENDING JUNE 30, 2020 (CDBG-CV)

MAYOR/COUNCILMEMBERS REPORTS

None

CITY COUNCIL REQUESTS FOR REPORTS, STUDIES OR INVESTIGATION

None

ADJOURNMENT

A motion to adjourn the Regular Meeting was made by Mayor Wu, and the meeting was adjourned at 8:21 p.m. The next regularly scheduled Regular City Council Meeting will be held on Tuesday, May 5, 2020 at 7:00 p.m. in the Council Chamber, 1444 West Garvey Avenue South, West Covina, California.

Submitted by:

Lisa Sherrick
Assistant City Clerk

Tony Wu
Mayor



CITY OF WEST COVINA

CITY COUNCIL/SUCCESSOR AGENCY

APRIL 21, 2020, 6:00 PM
REGULAR MEETING - CLOSED SESSION

CITY HALL COUNCIL CHAMBERS
1444 W. GARVEY AVENUE SOUTH
WEST COVINA, CALIFORNIA 91790

MINUTES

CALL TO ORDER

A Closed Session Meeting was called to order by Mayor Wu on Tuesday, April 21, 2020 at 6:02 p.m., in the City Hall Council Chambers, 1444 West Garvey Avenue South, West Covina, California.

ROLL CALL

Council Members

Present: Council Members Dario Castellanos, Lloyd Johnson, Jessica C. Shewmaker, Mayor Pro Tem Letty Lopez-Viado, Mayor Tony Wu – All Members were present via a GoToMeeting request

Council Members

Absent: None

City Staff: David Carmany City Manager, Mark Persico Assistant City Manager, Thomas P. Duarte City Attorney, Helen Tran Director of Human Resources, Howard Golds, BBK Outside Counsel via GoToMeeting request.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code § 54956.9(d)(1)

1. Franco v. City of West Covina (USDC, Central District of California, Case No. 5:18-cv-02587-JGB-SHK)
2. Palacios v. City of West Covina (USDC, Central District of California, Case No. 2:19-cv-01370 CBM (Ex))
3. Whithorn v. City of West Covina, et al (Superior Court of California, Case No. 20STCV08916)

CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code § 54957.6

City Negotiators: Carmany, Duarte

Employee Organizations

- Confidential Employees
- Maintenance & Crafts Employees
- Non-Sworn
- W.C. Police Officers' Association
- W.C. Firefighters' Management Assoc.
- W.C. Firefighters' Association, I.A.F.F., Local 3226
- General Employees
- Mid-Management Employees
- W.C. Police Management Association

Unrepresented Employee Group

- Department Heads

REPORTING OUT FROM CLOSED SESSION

City Attorney Thomas P. Duarte reported regarding Franco, vote 5-0 Council directed staff to pay plaintiff \$4.65 million (the City is responsible for the first million) in exchange plaintiff agreed to dismiss the lawsuit; regarding Palacios, vote 5-0 Council directed staff to pay plaintiff \$550,000 in exchange plaintiff agreed to dismiss the lawsuit.

(THIS SPACE IS INTENTIONALLY LEFT BLANK)

ADJOURNMENT

The Closed Session Meeting adjourned at 6:20 p.m., by Mayor Wu. The next regularly scheduled Closed Session City Council Meeting will be held on Tuesday, April 21, 2020 at 6:00 p.m. in the City Hall Council Chambers, 1444 West Garvey Avenue South, West Covina, California.

Submitted by:

Lisa Sherrick
Assistant City Clerk

Tony Wu
Mayor



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

**SUBJECT: SUMMARY OF ACTIONS FOR THE COMMUNITY AND SENIOR SERVICES
COMMISSION MEETING OF JANUARY 14, 2020.**

RECOMMENDATION:

It is recommended that the City Council receive and file the Summary of Actions for the January 14, 2020, regular meeting of the Community and Senior Services Commission.

DISCUSSION:

The January 14, 2020, Community and Senior Services Commission Meeting Minutes were approved by the Commission on March 10, 2020.

Prepared by: Deborah Johnston, Administrative Assistant II

Additional Approval: Mike Cresap, Public Services Superintendent

Attachments

Attachment No. 1 - Summary of Actions for Minutes of the Community and Senior Services Commission Meeting on January 14, 2020

CITY COUNCIL GOALS & OBJECTIVES: Enhance City Programs and Activities



CITY OF WEST COVINA
COMMUNITY AND SENIOR SERVICES COMMISSION

TUESDAY, JANUARY 14, 2020, 6:00 PM
REGULAR MEETING

WEST COVINA CITY HALL
MANAGEMENT RESOURCE CENTER (MRC) ROOM 314
WEST COVINA, CALIFORNIA 91790
MINUTES

Chair David Stewart
Vice-Chair Nick Lewis
Commissioner Paul Blackburn
Commissioner Tam Dinh
Commissioner Gayle Mason
Commissioner Carole Mullner
Commissioner Betty Valles
Commissioner Alfred Williams
Commissioner Karim Zaklama

AMERICANS WITH DISABILITIES ACT

The Commission complies with the Americans with Disabilities Act (ADA). If you will need special assistance at Commission Meetings, please call (626) 939-8433 (voice) or (626) 960-4422 (TTY) from 8:00 a.m. to 5:00 p.m. Monday through Thursday, at least 48 hours prior to the meeting to make arrangements.

AGENDA MATERIAL

Agenda material is available for review at the West Covina City Clerk's Office, Room 317 in City Hall, 1444 W. Garvey Avenue and at www.westcovina.org. Any writings or documents regarding any item on this agenda not exempt from public disclosure, provided to a majority of the Commission that is distributed less than 72 hours before the meeting, will be made available for public inspection in the City Clerk's Office, Room 317 of City Hall during normal business hours.

PUBLIC COMMENTS

ADDRESSING THE COMMUNITY AND SENIOR SERVICES COMMISSION

Any person wishing to address the Commission on any matter listed on the agenda or on any other matter within their jurisdiction should complete a speaker card that is provided at the entrance to the Council Chambers and submit the card to the Commission Secretary

Please identify on the speaker card whether you are speaking on an agenda item or non-agenda. Requests to speak on agenda items will be heard prior to requests to speak on non-agenda items. All comments are limited to three (3) minutes per speaker.

CALL TO ORDER – by Commissioner Stewart at 6:00 p.m.

PLEDGE OF ALLEGIANCE / MOMENT OF SILENT PRAYER – by Commissioner Lewis

ROLL CALL

Present: Chair David Stewart, Vice-Chair Nick Lewis, Commissioner Paul Blackburn, Commissioner Tam Dinh, Commissioner Gayle Mason, Commissioner Carole Mullner, Commissioner Betty Valles, Commissioner Alfred Williams.

Absent: Commissioner Karim Zaklama.

Staff Present: Public Services Superintendent, Mike Cresap, Public Services Manager Kelly McDonald, Administrative Assistant II Deborah Johnston.

ORAL COMMUNICATIONS - Three (3) minutes per speaker

Please state your name and city of residence for the record when recognized by the Commission Chair.

Speaker: Herb Redholtz, City Planning Commissioner

Comment: Commissioner Redholtz spoke on item No. 7 regarding dedication request in honor of Commissioner Phil Kaufman whom sat on the Community & Senior Services Commission for many years. He requested that there be a dedication of a monument, plaque, bench, city facility, park or the like in honor of Commissioner Kaufman's dedication to not on the Commission but to the City as a whole. Commissioner Redholtz agreed that it would be nice to plant a tree in his honor if there was a plaque stating this was in honor of Commissioner Kaufman and not just planting a tree. He requested that the Commission accept his request for consideration when making a decision on item No. 7.

Speaker: Steve Bennett, Resident & prior Community & Senior Services Commissioner

Comments: Mr. Bennett spoke on item No. 7 regarding dedication request in honor of Commissioner Phil Kaufman. Mr. Bennett stated that he believed that as a Commission they should honor Commissioner Kaufman in whatever manner that the City has done for prior city officials be it Mayors, Commissioners or elected officials. He also stated that a tree planted with a dedication plaque in honor of Commissioner Phil Kaufman would be a great idea and advised the Commission to consider not only his request but the request of prior speakers this evening as well when making a decision on item No. 7.

Speaker: Unknown Speaker (young lady), Resident

Comments: Suggested that planting a tree next to his wife's tree that was dedicated a few years back would be a great honor to be next to her tree.

APPROVAL OF MEETING MINUTES

1) September 10, 2019, Community and Senior Services Commission Meeting Minutes

It is recommended that Commission approve the September 10, 2019, Community and Senior Services Commission Meeting Minutes.

Motion by Lewis, seconded by Blackburn to approve the meeting minutes with corrections. Motion carried by a vote of 8-0 with one absent.

AYES: Stewart, Blackburn, Dinh, Lewis, Mason, Mullner, Valles, Williams.

NOES: None.

ABSENT: Zaklama

ABSTAIN: None.

NEW BUSINESS

1) Commissioner Mason's request to discuss homelessness in the parks and future tour of City parks to assess the needs at the parks in regard to homelessness.

It is recommended that the Commission direct Staff on how they would like to precede with items discussed.

Presented by Commissioner Mason. Discussion was had on the concerns that the citizens, staff and police department have their hands tied when it comes to addressing homelessness and how as a Commission can come together to address the issues that she has seen in person, that are posted on social media and in the news. Statistics were given to the Commission on the homeless population increase between this year and last year across California as well as upcoming increased possible funding to bills passed at the state level to assist cities with their homeless population and offering services. Commissioner Mullner wonders how those allocations could affect not only West Covina but the surrounding cities as well and if they will assist with the issues that have arisen and those that are to come. What can we as Commissioners do to reach out to our homeless population and let them know they are a part of our community and as such we are here to help them? Suggestion by Commissioner Mason was that the Commissioners visit the parks near their homes with their neighbors or family members (5-7 persons) once a week and reach out to the homeless population to ask what they need, how they are, what can we assist them with and how can they assist us in keeping our parks and neighborhoods safer and work together to help each other. Another suggestion was to close the parks to everybody at certain hours every day to make park usage times equal to everyone. There was further discussion on these items and suggestions. No action was taken at this time.

2) 2020 Homeless Count Informational Flyer

It is recommended that the Commission receive and file this information.

Presented by Mike Cresap. Flyer was given to Commissioners for the date of January 21, 2020 at 8 p.m. with the meeting location at Cameron Community Center.

Discussion was had as to why the count is done in the evenings and how do they count those encamped in hills or none visible areas. Staff stated that Los Angeles County Homeless Services Authority (LAHSA) is the organization that hosts the event and gathers the information for the County for discrimination.

3) Concert Share 2020

It is recommended that the Commission receive and file this information.

Presented by Mike Cresap. Flyer was given to the Commissioners with a date of January 16, 2020 meeting at the Senior Center to carpool over to the event. Concert Share is an event that the Commissioners and City Staff attend yearly to interview and select the bands for our Summer Concert Series as well as other events throughout the year.

4) Park Needs Assessment & Measure A Community Meeting Request.

It is recommended that Commissioners direct staff to set up a park needs assessment community meeting in the month of February to discuss the needs at city parks and facilities.

Presented by Mike Cresap. Discussion was had about setting up a park needs assessment meeting(s) in the spring to meet with the public to get their input on future projects for the parks. In the future, the city is looking into starting projects to replace a playground in the parks and would like the citizens input as well. It was asked by Commissioner Stewart if there were current projects happening and it was stated that there is a playground replacement in the works with existing funds and projects from prior park needs assessment meetings. Commissioner Lewis asked if this was specifically on existing playgrounds to replace or new playgrounds. Request to have the Park Needs Assessment meeting in the spring when parents are at the parks with their children which might increase attendance at these meetings. Staff stated they will consider that in the request for those meetings.

5) Facility Usage Reports for the Months of June and July 2019.

It is recommended that the Commission receive and file these reports.

Discussion was had on the facility usage reports and staff addressed them. These were received and filed.

CONTINUED BUSINESS

6) Dedication of a Tree to be Planted in Commissioner Kaufman Honor During the Arbor Day Event

It is recommended that the Commission direct Staff to create a letter to West Covina Beautiful, requesting that a tree be planted in honor of Commissioner Kaufman's service not only to the city as a Commissioner but for his services with various environmental organizations throughout California, at the 2020 Arbor Day Event.

Discussion was had on how to honor Commissioner Kaufman's memory. Discussion about what Commissioner Kaufman meant to the city and what he contributed to the city as well. Commissioners stated that a tree planted or dedication of a room in City Hall or community facility, bench in a park would be appropriate as well. Commissioner did bring up questions on which other Commissioners or Council persons have anything dedicated to them in the city. Staff stated that trees have been planted, Big League Dreams has statues placed in honor of residents, however for the most part, dedications have been in the form of planting trees, some with dedication plaques and some planted prior to a few years back without dedication plaques. Further discussion was had on the process.

Motion by Blackburn second by Lewis to send a letter to West Covina Beautiful to request that a plaque be placed at tree that was dedicated in honor of Commissioner Kaufman's wife dedicated in his honor as well. Motion dies with a vote of 4-4 with one absent.

AYES: Blackburn, Lewis, Valles, Williams.

NOES: Stewart, Dinh, Mason, Mullner.

ABSENT: Zaklama

Second Motion by Mason second by Mullner that a letter be sent to West Covina Beautiful to request that a tree be planted with a plaque in honor of Commissioner Phil Kaufman at this year's Arbor Day Event preferably next to his wife's tree if possible and if not, a tree be planted. Motion carried by a vote of 6-2 with one absent.

AYES: Stewart, Dinh, Lewis, Mason, Mullner, Williams.

NOES: Blackburn, Valles,

ABSENT: Zaklama

7) Update on Measure A Funding Projects per Commission Request.

It is recommended that the Commission receive and file this report.

Presented by Mike Cresap. Update was given to the Commission with a list of all the projects that have been completed in the past and are eligible for the use of maintenance funds. Discussion was had on projects that will have work done soon as well with the maintenance funding. Commissioner Lewis asked if there was any ability in getting updates on how projects looked in the beginning and how they look now. Staff stated that there isn't currently that method and Commissioner Lewis stated that visual aids would assist the Commission assess which parks need what and make recommendations for updating as well. Further discussion was had. Further review on the process of using old maintenance funds before we can use new maintenance funds was had and further discussion was had.

AD HOC COMMITTEE

Staff reported the need for appointments to the some of the Committees due to vacancies through May 2020. The Committees are currently assigned as follows:

CDBG Committee has the following Commissioners assigned to it:

Commissioners Stewart, Mason, Lewis, Mullner, Williams.

No need for additions to this committee.

CIP Committee has the following Commissioners assigned to it:

Commissioners Kaufman (vacant), Bennett (vacant), Mason, Valles and Lewis.

There is a need for appointments this evening for this committee.

Motion by Stewart second by Valles to appoint Commissioner Blackburn to the CIP Committee. Motion passes with a vote of 8-0 with one absent.

AYES: Stewart, Blackburn, Dinh, Lewis, Mason, Mullner, Valles, Williams.

NOES: None.

ABSENT: Zaklama

ABSTAIN: None.

Homeless Committee has the following Commissioners assigned to it:

Commissioners Kaufman (vacant), Dinh, Bennett (vacant), Stewart, Lewis.

There is a need for appointments this evening for this committee.

Motion by Stewart second by Dinh to appoint Commissioner Mason to the Homeless Committee. Motion passes with a vote of 8-0 with one absent.

AYES: Stewart, Blackburn, Dinh, Lewis, Mason, Mullner, Valles, Williams.

NOES: None.

ABSENT: Zaklama

ABSTAIN: None.

COMMISSIONERS REPORTS

Vice Chair Stewart: attended the Sprouts and Jerome's furniture grand openings.

Commissioner Blackburn: Attended the Sprouts opening, very impressive event. Attended Nikole Bresciani's farewell party and wishes her well.

Commissioner Dinh: Nothing to report.

Commissioner Lewis: Noting to report.

Commissioner Mason: Attended the Christmas Parade and Brad and his team are fantastic in organizing this event. Attended several other events as well.

Commissioner Mullner: Current member of the West Covina Women's club and is hoping to be able to be a liaison between the Commission and city for the club in the future.

Commissioner Valles: Attended the Sprouts and Jerome's grand openings and was very impressed. Also attended the 360 grand opening at the Plaza and was disappointed in the presentation of Commissioners there by the organizers.

Commissioner Williams: Attended the Veterans day event which was very nice. Also mentioned that the City reporting application had a change and the citizens, to his knowledge, were not informed. Staff updated Commissioner Williams that when the change occurred, notification was submitted to all users in all applications via emails in December of 2019, posted on the front page of the website and it will continue to be advertised in the upcoming edition of the Discover magazine as well as social media outlets.

Commissioner Zaklama: Absent.

ITEMS TO BE AGENDIZED

Commissioner Lewis request that an item be agendized for the following items:

1. Request discussion to have the Commission request of the Council to appoint the Community & Senior Services Commissions ADHOC Homeless Sub Committee to the current Homeless taskforce formed by city staff.
2. Request that discussion be had about request of the Council to send a letter to request that Emanate Health being better partners with the community and citizens by providing better services to all citizens including the homeless population as well as providing better customer services in relation to Public Records requests from not only citizens but businesses that request them as well.

UPCOMING EVENTS

8) **Special Event Calendar for 2020.**

It is recommended that the Commission receive and file this report.

Report was received and filed.

ADJOURNMENT - at 7:38 p.m.

Motion by Stewart second by Lewis, Motion passes with a vote of 8-0 with one absent.

AYES: Stewart, Blackburn, Dinh, Lewis, Mason, Mullner, Valles, Williams.

NOES: None.

ABSENT: Zaklama

ABSTAIN: None.

2020 Community and Senior Services Commission Meetings

Tuesday, March 10, 2020, at 6 p.m.

Tuesday, May 12, 2020, at 6 p.m.

Tuesday, July 14, 2020, at 6 p.m.

Tuesday, September 8, 2020, at 6 p.m.

Tuesday, November 10, 2020, at 6 p.m.



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

SUBJECT: CONSIDERATION OF INVESTMENT REPORT FOR THE MONTH ENDED FEBRUARY 29, 2020

RECOMMENDATION:

It is recommended that the City Council receive and file the Investment Report for the month ended February 29, 2020.

BACKGROUND:

California Government Code Section 53646 requires that cities report detailed information on all securities, investments, and monies of the City and to report the market value of the investments held. California Government Code Section 53601 and the City's Investment Policy define the types of investments allowed. The City's Investment Policy was last revised and adopted by the City Council on July 2, 2019. The City's Investment Policy has set primary goals of the portfolio management of safety, liquidity and yield.

Bond reserves are held and invested by a Trustee. The investment of these funds is governed by an investment policy approved by the City Council as a part of the governing documents for each specific bond issue.

DISCUSSION:

The Investment Report (Attachment No. 1) presents the City's and the Successor Agency's cash and investments for the month ended February 29, 2020. This report is in compliance with California Government Code Section 53646 regarding the reporting of detailed information on all securities, investments, and monies of the City, as well as, reporting of the market value of the investments held. All the investments contained within the portfolio are in full compliance with Government Code Section 53601 and the City's Investment Policy as to the types of investments allowed. As stated in the attached report, there are sufficient funds to meet the budgeted expenditures over the next six months. The City's surplus funds are deposited with the Los Angeles County Investment Pool (LACIP), the Local Agency Investment Fund (LAIF) and Chandler Asset Management (Attachment No. 2).

At February 29, 2020, the investment portfolio had a market value of \$75,443,526 and the bond reserves had a market value of \$6,659,042.

Prepared by: Robbeyn Bird, Finance Director

Additional Approval: David Carmany, City Manager

Attachments

Attachment No. 1 - Investment Report February 2020

Attachment No. 2 - Chandler Report February 2020

CITY COUNCIL GOALS & OBJECTIVES: Achieve Fiscal Sustainability and Financial Stability

**City of West Covina
Investment Report
For the Month Ended February 29, 2020**

Description	Book Value	Market Value	Interest/ Yield to Maturity	Maturity Date	% of Portfolio
Cash and Cash Equivalents					
Wells Fargo Checking Account	\$ 5,271,272	\$ 5,271,272	0.00%	n/a	6.42%
Pacific Western Bank Checking - HPP (CDBG)	15,556	15,556	0.00%	n/a	0.02%
Pacific Western Bank Checking - HPP (LMIHF)	12,030	12,030	0.00%	n/a	0.01%
Los Angeles County Investment Pool (LACIP)	15,622,902	15,622,902	1.89%	n/a	19.03%
Los Angeles County Investment Pool (LACIP) - CFD	893,013	893,013	1.89%	n/a	1.09%
Local Agency Investment Fund (LAIF)	45,170,324	45,170,324	1.91%	n/a	55.02%
Wells Fargo Checking Account - Successor Agency	3,436,247	3,436,247	0.00%	n/a	4.19%
Wells Fargo Checking Account - CFD	1,730,680	1,730,680	0.00%	n/a	2.11%
Investments - Chandler Asset Management					
Asset-Backed Securities	216,776	217,945	1.44%	See attached	0.27%
Federal Agencies	1,752,771	1,752,862	1.20%	See attached	2.13%
Collateralized Mortgage Obligation	150,502	152,016	1.76%	See attached	0.19%
Money Market Funds	42,969	42,969	1.17%	See attached	0.05%
US Treasury	1,126,455	1,125,710	1.33%	See attached	1.37%
Total Cash and Investments	\$ 75,441,497	\$ 75,443,526			
Bond Reserves					
Lease Revenue Bonds, 2006 Series A & 2006 Series B (Taxable)					
First American Treasury Obligations Fund Class D	\$ 1,071,000	\$ 1,071,000	1.39%	n/a	1.30%
First American Treasury Obligations Fund Class D	585,372	585,372	1.39%	n/a	0.71%
1996 Special Tax Refunding Bonds - Successor Agency					
First American Treasury Obligations Fund Class D	5,002,670	5,002,670	7.01%	9/1/2022	6.09%
First American Treasury Obligations Fund Class D	-	-	1.39%	n/a	0.00%
Total Bond Reserves	\$ 6,659,042	\$ 6,659,042			
Total Investment Portfolio	\$ 82,100,539	\$ 82,102,568			100.00%

Blended Yield of Cash and Investments *	1.87%
---	-------

Benchmarks:	
LAIF	1.91%
LACIP	1.89%
6mo U.S. Treasury	1.11%
2yr U.S. Treasury	0.86%
5yr U.S. Treasury	0.89%

I hereby certify that the investments are in compliance with the investment policy adopted by the City Council. The investment portfolio provides sufficient funds to meet the budgeted expenditures over the next six months. This report meets the requirements of Government Code Section 53646.


PREPARED BY:


Robbeyn Bird - Finance Director

REVIEWED BY:

Colleen B. Rozatti - City Treasurer

APPROVED BY:


David Carmany - City Manager



City of West Covina Short Term - Account #10479

MONTHLY ACCOUNT STATEMENT

FEBRUARY 1, 2020 THROUGH FEBRUARY 29, 2020

Chandler Team:

For questions about your account, please call (800) 317-4747,
or contact operations@chandlerasset.com

Custodian

US Bank
Christopher Isles
(503) 464-3685

CHANDLER ASSET MANAGEMENT
chandlerasset.com

Information contained herein is confidential. We urge you to compare this statement to the one you receive from your qualified custodian. Please see Important Disclosures.



PORTFOLIO CHARACTERISTICS

Average Modified Duration	0.60
Average Coupon	1.52%
Average Purchase YTM	1.23%
Average Market YTM	1.29%
Average S&P/Moody Rating	AA+/Aaa
Average Final Maturity	0.70 yrs
Average Life	0.61 yrs

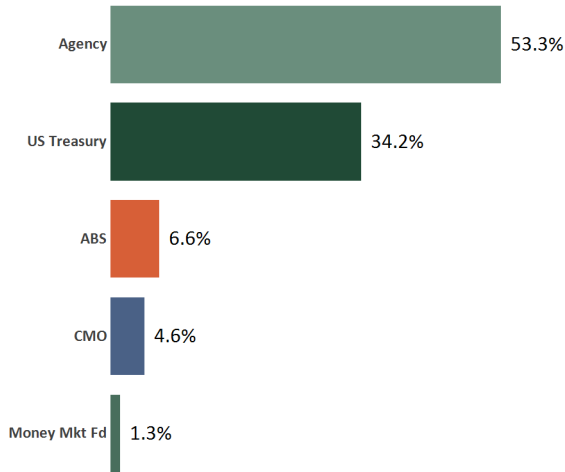
ACCOUNT SUMMARY

	Beg. Values as of 1/31/20	End Values as of 2/29/20
Market Value	5,220,498	3,291,502
Accrued Interest	8,181	8,979
Total Market Value	5,228,678	3,300,481
Income Earned	4,309	4,554
Cont/WD		-1,940,435
Par	5,220,279	3,284,301
Book Value	5,226,152	3,289,473
Cost Value	5,257,722	3,321,816

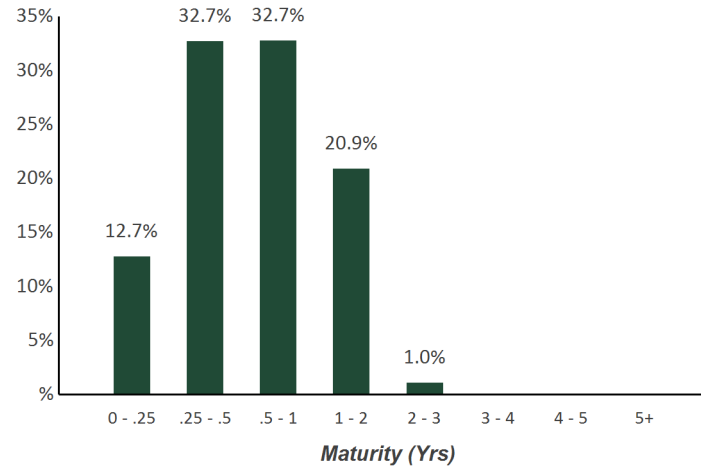
TOP ISSUERS

Federal National Mortgage Assoc	42.6%
Government of United States	34.2%
Federal Home Loan Bank	10.6%
Honda ABS	5.2%
Federal Home Loan Mortgage Corp	4.6%
John Deere ABS	1.4%
First American Govt Oblig Fund	1.3%
Total	100.0%

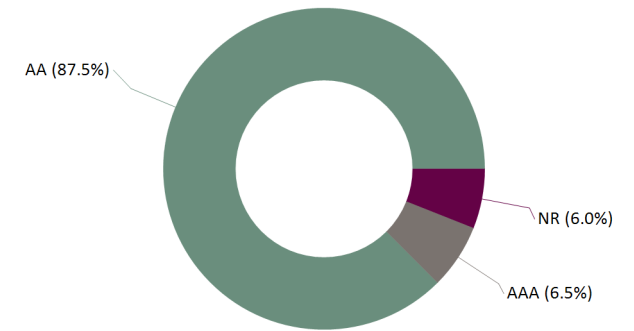
SECTOR ALLOCATION



MATURITY DISTRIBUTION



CREDIT QUALITY (S&P)



PERFORMANCE REVIEW

TOTAL RATE OF RETURN	1M	3M	YTD	1YR	Annualized				
					2YRS	3YRS	5YRS	10YRS	7/31/2016
City of West Covina Short Term	0.37%	0.69%	0.53%	3.39%	2.93%	2.08%	N/A	N/A	1.71%
ICE BAML 1-3 Yr US Treasury/Agency Index	0.86%	1.62%	1.41%	4.61%	3.45%	2.25%	N/A	N/A	1.81%

Statement of Compliance

As of February 29, 2020



City of West Covina

Assets managed by Chandler Asset Management are in full compliance with state law and the District's investment policy.

Category	Standard	Comment
Treasury Issues	No limitations	Complies
Federal Agencies	No limitations	Complies
Municipal Securities	"A" or higher by a NRSRO; 30% maximum; 5% max per issuer	Complies
Supranationals	"AA" rated or higher by a NRSRO; 30% max; 10% max per issuer; Unsubordinated obligations issued by: IBRD, IFC, IADB	Complies
Medium Term Notes	"A" rated or higher by a NRSRO; 30% maximum; 5% max per issuer; Issued by corporations organized and operating within the U.S.	Complies
Collateralized Certificates of Deposit	25% maximum	Complies
Negotiable Certificates of Deposit	"A" rated or better by a NRSRO; 30% maximum	Complies
Banker's Acceptances	40% maximum; 30% max per one commercial bank; 180 days max maturity	Complies
Commercial Paper	A-1/P-1 rating or higher by both S&P and Moody's; 25% maximum; 5% per issuer; 270 days max maturity; Eligible paper is limited to corporations organized and operating within the U.S. with total assets of at least \$500 million	Complies
Asset-Backed Securities/ Mortgage-Backed Securities	"AA" or better by a NRSRO; "A" rated issuer rating or higher by a NRSRO; 20% maximum	Complies
Money Market Mutual Funds	"AAA" rated or highest rating by a NRSRO; 20% maximum; 10% per fund	Does not comply*
Prohibited Securities	Inverse floaters; Ranges notes, Interest-only strips from mortgaged backed securities; Zero interest accrual securities; Reverse Repurchase Agreements	Complies
Repurchase Agreements	20% maximum; 100 days max maturity; collateralized 102% of market value; Not used by investment adviser	Complies
Local Agency Investment Fund (LAIF)	Maximum program; Not used by investment adviser	Complies
Los Angeles County Investment Pool	Maximum program; Not used by investment adviser	Complies
Max per Security Type	No more than 40% of the City's total portfolio shall be invested in a single security type or with a single financial institution	Complies
Max per Issuer	No more than 5% in any single issuer except US Gov, Agencies, Supranationals, Money Market Funds, LAIF, or LGIP	Complies
Maximum Maturity	5 years	Complies

*MMF concentration is at 37.3%; pending client withdrawal

Reconciliation Summary

As of February 29, 2020



BOOK VALUE RECONCILIATION		
BEGINNING BOOK VALUE		\$5,226,152.42
Acquisition		
+ Security Purchases	\$0.00	
+ Money Market Fund Purchases	\$32,570.41	
+ Money Market Contributions	\$0.00	
+ Security Contributions	\$0.00	
+ Security Transfers	\$0.00	
Total Acquisitions		\$32,570.41
Dispositions		
- Security Sales	\$0.00	
- Money Market Fund Sales	\$0.00	
- MMF Withdrawals	\$1,940,435.36	
- Security Withdrawals	\$0.00	
- Security Transfers	\$0.00	
- Other Dispositions	\$0.00	
- Maturities	\$0.00	
- Calls	\$0.00	
- Principal Paydowns	\$28,113.06	
Total Dispositions		\$1,968,548.42
Amortization/Accretion		
+/- Net Accretion	(\$701.56)	
		(\$701.56)
Gain/Loss on Dispositions		
+/- Realized Gain/Loss	\$0.00	
		\$0.00
ENDING BOOK VALUE		\$3,289,472.85

CASH TRANSACTION SUMMARY		
BEGINNING BALANCE		\$1,950,833.67
Acquisition		
Contributions	\$0.00	
Security Sale Proceeds	\$0.00	
Accrued Interest Received	\$0.00	
Interest Received	\$3,290.52	
Dividend Received	\$1,166.83	
Principal on Maturities	\$0.00	
Interest on Maturities	\$0.00	
Calls/Redemption (Principal)	\$0.00	
Interest from Calls/Redemption	\$0.00	
Principal Paydown	\$28,113.06	
Total Acquisitions		\$32,570.41
Dispositions		
Withdrawals	\$1,940,435.36	
Security Purchase	\$0.00	
Accrued Interest Paid	\$0.00	
Total Dispositions		\$1,940,435.36
ENDING BOOK VALUE		\$42,968.72



CUSIP	Security Description	Par Value/Units	Purchase Date Book Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody/S&P Fitch	Maturity Duration
ABS									
43811BAC8	Honda Auto Receivables Trust 2017-2 A3 1.68% Due 8/16/2021	35,154.82	04/27/2018 2.62%	34,608.27 34,912.87	100.06 1.49%	35,177.21 26.25	1.07% 264.34	Aaa / AAA NR	1.46 0.33
43814WAB1	Honda Auto Receivables Trust 2019-1 A2 2.75% Due 9/20/2021	136,394.34	02/19/2019 2.77%	136,385.55 136,389.01	100.50 1.46%	137,070.44 135.45	4.16% 681.43	NR / AAA AAA	1.56 0.38
47788BAD6	John Deere Owner Trust 2017-B A3 1.82% Due 10/15/2021	11,679.69	07/11/2017 1.83%	11,678.84 11,679.36	100.10 1.44%	11,691.00 9.45	0.35% 11.64	Aaa / NR AAA	1.63 0.25
47788CAC6	John Deere Owner Trust 2018-A A3 2.66% Due 4/18/2022	33,795.53	02/21/2018 2.68%	33,793.11 33,794.28	100.62 1.31%	34,006.43 39.95	1.03% 212.15	Aaa / NR AAA	2.13 0.46
Total ABS		217,024.38	2.68%	216,465.77 216,775.52	1.44%	217,945.08 211.10	6.61% 1,169.56	Aaa / AAA AAA	1.64 0.38
AGENCY									
3135G0D75	FNMA Note 1.5% Due 6/22/2020	700,000.00	07/29/2016 1.03%	712,474.00 700,989.86	100.05 1.32%	700,379.40 2,012.50	21.28% (610.46)	Aaa / AA+ AAA	0.31 0.31
3135G0F73	FNMA Note 1.5% Due 11/30/2020	350,000.00	07/29/2016 1.10%	355,939.50 351,026.77	100.24 1.18%	350,847.00 1,327.08	10.67% (179.77)	Aaa / AA+ AAA	0.75 0.74
3130A7CV5	FHLB Note 1.375% Due 2/18/2021	350,000.00	07/29/2016 1.13%	353,846.50 350,817.81	100.22 1.15%	350,759.15 173.78	10.63% (58.66)	Aaa / AA+ AAA	0.97 0.96
3135G0K69	FNMA Note 1.25% Due 5/6/2021	350,000.00	07/22/2016 1.27%	349,744.50 349,936.89	100.25 1.04%	350,876.05 1,397.57	10.67% 939.16	Aaa / AA+ AAA	1.18 1.17
Total Agency		1,750,000.00	1.11%	1,772,004.50 1,752,771.33	1.20%	1,752,861.60 4,910.93	53.26% 90.27	Aaa / AA+ AAA	0.71 0.70
CMO									
3137BFDQ1	FHLMC K717 A2 2.991% Due 9/25/2021	149,307.88	01/04/2018 2.37%	152,130.74 150,501.61	101.81 1.76%	152,016.02 372.15	4.62% 1,514.41	NR / NR AAA	1.57 1.35
Total CMO		149,307.88	2.37%	152,130.74 150,501.61	1.76%	152,016.02 372.15	4.62% 1,514.41	NR / NR AAA	1.57 1.35

Holdings Report

As of February 29, 2020



CUSIP	Security Description	Par Value/Units	Purchase Date Book Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody/S&P Fitch	Maturity Duration
MONEY MARKET FUND FI									
31846V203	First American Govt Obligation Fund Class Y	42,968.72	Various 1.17%	42,968.72 42,968.72	1.00 1.17%	42,968.72 0.00	1.30% 0.00	Aaa / AAA AAA	0.00 0.00
Total Money Market Fund FI		42,968.72	1.17%	42,968.72	1.17%	42,968.72 0.00	1.30% 0.00	Aaa / AAA AAA	0.00 0.00
US TREASURY									
912828UV0	US Treasury Note 1.125% Due 3/31/2020	375,000.00	08/05/2016 0.92%	377,799.11 375,063.09	99.97 1.42%	374,904.38 1,763.58	11.41% (158.71)	Aaa / AA+ AAA	0.08 0.08
912828VF4	US Treasury Note 1.375% Due 5/31/2020	375,000.00	08/05/2016 0.99%	380,391.88 375,352.49	99.98 1.45%	374,926.88 1,296.11	11.40% (425.61)	Aaa / AA+ AAA	0.25 0.25
912828N89	US Treasury Note 1.375% Due 1/31/2021	375,000.00	08/11/2016 1.07%	380,054.97 376,040.09	100.23 1.12%	375,879.00 424.97	11.40% (161.09)	Aaa / AA+ AAA	0.92 0.91
Total US Treasury		1,125,000.00	0.99%	1,138,245.96 1,126,455.67	1.33%	1,125,710.26 3,484.66	34.21% (745.41)	Aaa / AA+ AAA	0.42 0.42
TOTAL PORTFOLIO		3,284,300.98	1.23%	3,321,815.69 3,289,472.85	1.29%	3,291,501.68 8,978.84	100.00% 2,028.83	Aaa / AA+ AAA	0.70 0.60
TOTAL MARKET VALUE PLUS ACCRUED						3,300,480.52			



Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
ACQUISITIONS										
Purchase	02/03/2020	31846V203	1,166.83	First American Govt Obligation Fund Class Y	1.000	1.17%	1,166.83	0.00	1,166.83	0.00
Purchase	02/18/2020	31846V203	2,406.25	First American Govt Obligation Fund Class Y	1.000	1.17%	2,406.25	0.00	2,406.25	0.00
Purchase	02/18/2020	31846V203	4,842.79	First American Govt Obligation Fund Class Y	1.000	1.17%	4,842.79	0.00	4,842.79	0.00
Purchase	02/18/2020	31846V203	16,535.42	First American Govt Obligation Fund Class Y	1.000	1.17%	16,535.42	0.00	16,535.42	0.00
Purchase	02/18/2020	31846V203	2,840.02	First American Govt Obligation Fund Class Y	1.000	1.17%	2,840.02	0.00	2,840.02	0.00
Purchase	02/18/2020	31846V203	4,202.43	First American Govt Obligation Fund Class Y	1.000	1.17%	4,202.43	0.00	4,202.43	0.00
Purchase	02/25/2020	31846V203	576.67	First American Govt Obligation Fund Class Y	1.000	1.17%	576.67	0.00	576.67	0.00
Subtotal			32,570.41				32,570.41	0.00	32,570.41	0.00
TOTAL ACQUISITIONS			32,570.41				32,570.41	0.00	32,570.41	0.00
DISPOSITIONS										
Paydown	02/18/2020	43811BAC8	4,786.87	Honda Auto Receivables Trust 2017-2 A3 1.68% Due 8/16/2021	100.000		4,786.87	55.92	4,842.79	0.00
Paydown	02/18/2020	43814WAB1	16,185.76	Honda Auto Receivables Trust 2019-1 A2 2.75% Due 9/20/2021	100.000		16,185.76	349.66	16,535.42	0.00
Paydown	02/18/2020	47788BAD6	2,818.03	John Deere Owner Trust 2017-B A3 1.82% Due 10/15/2021	100.000		2,818.03	21.99	2,840.02	0.00
Paydown	02/18/2020	47788CAC6	4,118.39	John Deere Owner Trust 2018-A A3 2.66% Due 4/18/2022	100.000		4,118.39	84.04	4,202.43	0.00
Paydown	02/25/2020	3137BFDQ1	204.01	FHLMC K717 A2 2.991% Due 9/25/2021	100.000		204.01	372.66	576.67	0.00
Subtotal			28,113.06				28,113.06	884.27	28,997.33	0.00



Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
DISPOSITIONS										
Security Withdrawal	02/05/2020	31846V203	391.86	First American Govt Obligation Fund Class Y	1.000		391.86	0.00	391.86	0.00
Security Withdrawal	02/05/2020	31846V203	1,940,000.00	First American Govt Obligation Fund Class Y	1.000		1,940,000.00	0.00	1,940,000.00	0.00
Security Withdrawal	02/24/2020	31846V203	43.50	First American Govt Obligation Fund Class Y	1.000		43.50	0.00	43.50	0.00
Subtotal			1,940,435.36				1,940,435.36	0.00	1,940,435.36	0.00
TOTAL DISPOSITIONS			1,968,548.42				1,968,548.42	884.27	1,969,432.69	0.00
OTHER TRANSACTIONS										
Interest	02/18/2020	3130A7CV5	350,000.00	FHLB Note 1.375% Due 2/18/2021	0.000		2,406.25	0.00	2,406.25	0.00
Subtotal			350,000.00				2,406.25	0.00	2,406.25	0.00
Dividend	02/03/2020	31846V203	1,950,833.67	First American Govt Obligation Fund Class Y	0.000		1,166.83	0.00	1,166.83	0.00
Subtotal			1,950,833.67				1,166.83	0.00	1,166.83	0.00
TOTAL OTHER TRANSACTIONS			2,300,833.67				3,573.08	0.00	3,573.08	0.00



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

SUBJECT: CONSIDERATION OF INVESTMENT REPORT FOR THE MONTH ENDED MARCH 31, 2020

RECOMMENDATION:

It is recommended that the City Council receive and file the Investment Report for the month ended March 31, 2020.

BACKGROUND:

California Government Code Section 53646 requires that cities report detailed information on all securities, investments, and monies of the City and to report the market value of the investments held. California Government Code Section 53601 and the City's Investment Policy define the types of investments allowed. The City's Investment Policy was last revised and adopted by the City Council July 2, 2019. The City's Investment Policy has set primary goals of the portfolio management of safety, liquidity and yield.

Bond reserves are held and invested by a Trustee. The investment of these funds is governed by an investment policy approved by the City Council as a part of the governing documents for each specific bond issue.

DISCUSSION:

The Investment Report (Attachment No. 1) presents the City's and the Successor Agency's cash and investments for the month ended March 31, 2020. This report is in compliance with California Government Code Section 53646 regarding the reporting of detailed information on all securities, investments, and monies of the City, as well as, reporting of the market value of the investments held. All the investments contained within the portfolio are in full compliance with Government Code Section 53601 and the City's Investment Policy as to the types of investments allowed. As stated in the attached report, there are sufficient funds to meet the budgeted expenditures over the next six months. The City's surplus funds are deposited with the Los Angeles County Investment Pool (LACIP), the Local Agency Investment Fund (LAIF) and Chandler Asset Management (Attachment No. 2)

At March 31, 2020, the investment portfolio had a market value of \$73,779,393 and the bond reserves had a market value of \$6,659,042.

Prepared by: Robbeyn Bird, Finance Director

Additional Approval: David Carmany, City Manager

Attachments

Attachment No. 1 - Investment Report March 2020

Attachement No. 2 - Chandler Report March 2020

CITY COUNCIL GOALS & OBJECTIVES: Achieve Fiscal Sustainability and Financial Stability

**City of West Covina
Investment Report
For the Month Ended March 31, 2020**

Description	Book Value	Market Value	Interest/ Yield to Maturity	Maturity Date	% of Portfolio
Cash and Cash Equivalents					
Wells Fargo Checking Account	\$ 4,078,457	\$ 4,078,457	0.00%	n/a	5.07%
Pacific Western Bank Checking - HPP (CDBG)	3,664	3,664	0.00%	n/a	0.00%
Pacific Western Bank Checking - HPP (LMIHF)	2,114	2,114	0.00%	n/a	0.00%
Los Angeles County Investment Pool (LACIP)	11,849,529	11,849,529	1.71%	n/a	14.73%
Los Angeles County Investment Pool (LACIP) - CFD	894,252	894,252	1.71%	n/a	1.11%
Local Agency Investment Fund (LAIF)	48,570,324	48,570,324	1.79%	n/a	60.38%
Wells Fargo Checking Account - Successor Agency	3,399,277	3,399,277	0.00%	n/a	4.23%
Wells Fargo Checking Account - CFD	1,676,412	1,676,412	0.00%	n/a	2.08%
Investments - Chandler Asset Management					
Asset-Backed Securities	192,347	191,923	2.82%	See attached	0.24%
Federal Agencies	1,752,317	1,760,285	0.37%	See attached	2.19%
Collateralized Mortgage Obligation	150,204	152,741	1.90%	See attached	0.19%
Money Market Funds	445,523	445,523	0.12%	See attached	0.55%
US Treasury	751,176	754,892	0.09%	See attached	0.94%
Total Cash and Investments	\$ 73,765,596	\$ 73,779,393			
Bond Reserves					
Lease Revenue Bonds, 2006 Series A & 2006 Series B (Taxable)					
First American Treasury Obligations Fund Class D	\$ 1,071,000	\$ 1,071,000	1.39%	n/a	1.33%
First American Treasury Obligations Fund Class D	585,372	585,372	1.39%	n/a	0.73%
1996 Special Tax Refunding Bonds - Successor Agency					
First American Treasury Obligations Fund Class D	5,002,670	5,002,670	7.01%	9/1/2022	6.22%
First American Treasury Obligations Fund Class D	-	-	1.39%	n/a	0.00%
Total Bond Reserves	\$ 6,659,042	\$ 6,659,042			
Total Investment Portfolio	\$ 80,424,638	\$ 80,438,435			100.00%

Blended Yield of Cash and Investments *	1.71%
--	--------------

Benchmarks:	
LAIF	1.79%
LACIP	1.71%
6mo U.S. Treasury	0.15%
2yr U.S. Treasury	0.23%
5yr U.S. Treasury	0.37%

I hereby certify that the investments are in compliance with the investment policy adopted by the City Council. The investment portfolio provides sufficient funds to meet the budgeted expenditures over the next six months. This report meets the requirements of Government Code Section 53646.

PREPARED BY:


Robbeyn Bird - Finance Director

REVIEWED BY:

Colleen B. Rozatti - City Treasurer

APPROVED BY:


David Carmany - City Manager



City of West Covina Short Term - Account #10479

MONTHLY ACCOUNT STATEMENT

MARCH 1, 2020 THROUGH MARCH 31, 2020

Chandler Team:

For questions about your account, please call (800) 317-4747,
or contact operations@chandlerasset.com

Custodian

US Bank
Christopher Isles
(503) 464-3685

CHANDLER ASSET MANAGEMENT
chandlerasset.com

Information contained herein is confidential. We urge you to compare this statement to the one you receive from your qualified custodian. Please see Important Disclosures.



PORTFOLIO CHARACTERISTICS

Average Modified Duration	0.52
Average Coupon	1.37%
Average Purchase YTM	1.11%
Average Market YTM	0.49%
Average S&P/Moody Rating	AA+/Aaa
Average Final Maturity	0.61 yrs
Average Life	0.52 yrs

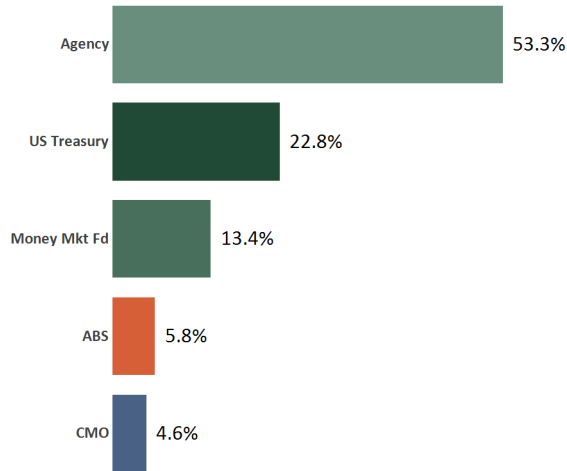
ACCOUNT SUMMARY

	Beg. Values as of 2/29/20	End Values as of 3/31/20
Market Value	3,291,502	3,305,364
Accrued Interest	8,979	10,145
Total Market Value	3,300,481	3,315,509
Income Earned	4,554	3,622
Cont/WD		-362
Par	3,284,301	3,287,152
Book Value	3,289,473	3,291,567
Cost Value	3,321,816	3,321,933

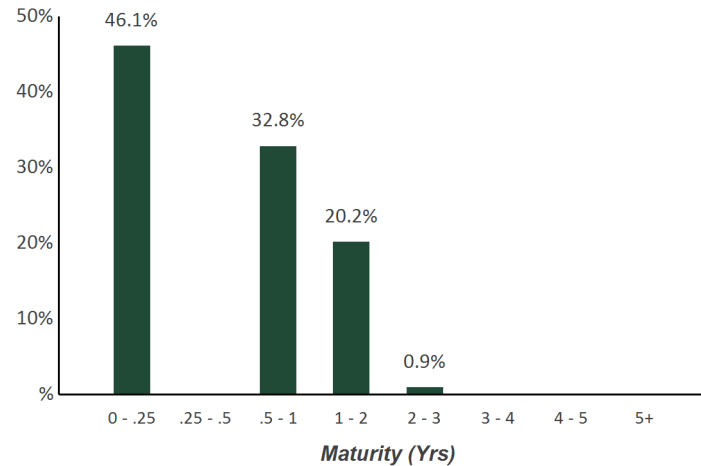
TOP ISSUERS

Federal National Mortgage Assoc	42.6%
Government of United States	22.8%
First American Govt Oblig Fund	13.4%
Federal Home Loan Bank	10.7%
Federal Home Loan Mortgage Corp	4.6%
Honda ABS	4.6%
John Deere ABS	1.2%
Total	100.0%

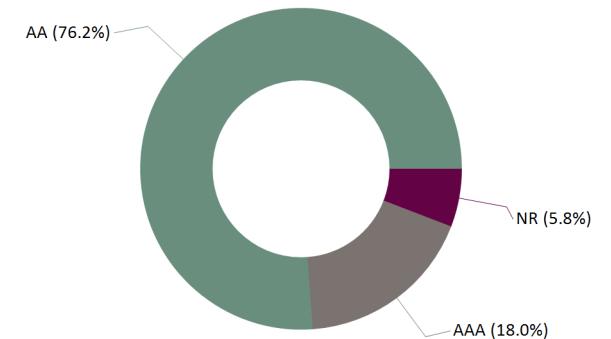
SECTOR ALLOCATION



MATURITY DISTRIBUTION



CREDIT QUALITY (S&P)



PERFORMANCE REVIEW

TOTAL RATE OF RETURN	1M	3M	YTD	1YR	Annualized				
					2YRS	3YRS	5YRS	10YRS	7/31/2016
City of West Covina Short Term	0.47%	0.99%	0.99%	3.35%	3.08%	2.21%	N/A	N/A	1.80%
ICE BAML 1-3 Yr US Treasury/Agency Index	1.35%	2.78%	2.78%	5.39%	4.05%	2.70%	N/A	N/A	2.15%

Statement of Compliance

As of March 31, 2020



City of West Covina

Assets managed by Chandler Asset Management are in full compliance with state law and the District's investment policy.

Category	Standard	Comment
Treasury Issues	No limitations	Complies
Federal Agencies	No limitations	Complies
Municipal Securities	"A" or higher by a NRSRO; 30% maximum; 5% max per issuer	Complies
Supranationals	"AA" rated or higher by a NRSRO; 30% max; 10% max per issuer; Unsubordinated obligations issued by: IBRD, IFC, IADB	Complies
Medium Term Notes	"A" rated or higher by a NRSRO; 30% maximum; 5% max per issuer; Issued by corporations organized and operating within the U.S.	Complies
Collateralized Certificates of Deposit	25% maximum	Complies
Negotiable Certificates of Deposit	"A" rated or better by a NRSRO; 30% maximum	Complies
Banker's Acceptances	40% maximum; 30% max per one commercial bank; 180 days max maturity	Complies
Commercial Paper	A-1/P-1 rating or higher by both S&P and Moody's; 25% maximum; 5% per issuer; 270 days max maturity; Eligible paper is limited to corporations organized and operating within the U.S. with total assets of at least \$500 million	Complies
Asset-Backed Securities/ Mortgage-Backed Securities	"AA" or better by a NRSRO; "A" rated issuer rating or higher by a NRSRO; 20% maximum	Complies
Money Market Mutual Funds	"AAA" rated or highest rating by a NRSRO; 20% maximum; 10% per fund	Does not comply*
Prohibited Securities	Inverse floaters; Ranges notes, Interest-only strips from mortgaged backed securities; Zero interest accrual securities; Reverse Repurchase Agreements	Complies
Repurchase Agreements	20% maximum; 100 days max maturity; collateralized 102% of market value; Not used by investment adviser	Complies
Local Agency Investment Fund (LAIF)	Maximum program; Not used by investment adviser	Complies
Los Angeles County Investment Pool	Maximum program; Not used by investment adviser	Complies
Max per Security Type	No more than 40% of the City's total portfolio shall be invested in a single security type or with a single financial institution	Complies
Max per Issuer	No more than 5% in any single issuer except US Gov, Agencies, Supranationals, Money Market Funds, LAIF, or LGIP	Complies
Maximum Maturity	5 years	Complies

*MMF concentration is at 13.4%; pending client withdrawal

Reconciliation Summary

As of March 31, 2020



BOOK VALUE RECONCILIATION		
BEGINNING BOOK VALUE		\$3,289,472.85
Acquisition		
+ Security Purchases	\$0.00	
+ Money Market Fund Purchases	\$402,915.53	
+ Money Market Contributions	\$0.00	
+ Security Contributions	\$0.00	
+ Security Transfers	\$0.00	
Total Acquisitions		\$402,915.53
Dispositions		
- Security Sales	\$0.00	
- Money Market Fund Sales	\$0.00	
- MMF Withdrawals	\$361.51	
- Security Withdrawals	\$0.00	
- Security Transfers	\$0.00	
- Other Dispositions	\$0.00	
- Maturities	\$375,000.00	
- Calls	\$0.00	
- Principal Paydowns	\$24,703.25	
Total Dispositions		\$400,064.76
Amortization/Accretion		
+/- Net Accretion	(\$756.50)	
		(\$756.50)
Gain/Loss on Dispositions		
+/- Realized Gain/Loss	\$0.00	
		\$0.00
ENDING BOOK VALUE		\$3,291,567.12

CASH TRANSACTION SUMMARY		
BEGINNING BALANCE		\$42,968.72
Acquisition		
Contributions	\$0.00	
Security Sale Proceeds	\$0.00	
Accrued Interest Received	\$0.00	
Interest Received	\$2,935.94	
Dividend Received	\$276.34	
Principal on Maturities	\$375,000.00	
Interest on Maturities	\$0.00	
Calls/Redemption (Principal)	\$0.00	
Interest from Calls/Redemption	\$0.00	
Principal Paydown	\$24,703.25	
Total Acquisitions	\$402,915.53	
Dispositions		
Withdrawals	\$361.51	
Security Purchase	\$0.00	
Accrued Interest Paid	\$0.00	
Total Dispositions	\$361.51	
ENDING BOOK VALUE		\$445,522.74



CUSIP	Security Description	Par Value/Units	Purchase Date Book Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody/S&P Fitch	Maturity Duration
ABS									
43811BAC8	Honda Auto Receivables Trust 2017-2 A3 1.68% Due 8/16/2021	30,741.31	04/27/2018 2.62%	30,263.38 30,542.04	99.76 2.50%	30,666.47 22.95	0.93% 124.43	Aaa / AAA NR	1.38 0.30
43814WAB1	Honda Auto Receivables Trust 2019-1 A2 2.75% Due 9/20/2021	121,240.78	02/19/2019 2.77%	121,232.97 121,236.30	99.76 3.47%	120,948.54 120.40	3.65% (287.76)	NR / AAA AAA	1.47 0.34
47788BAD6	John Deere Owner Trust 2017-B A3 1.82% Due 10/15/2021	9,534.35	07/11/2017 1.83%	9,533.66 9,534.10	99.63 3.56%	9,499.46 7.71	0.29% (34.64)	Aaa / NR AAA	1.54 0.21
47788CAC6	John Deere Owner Trust 2018-A A3 2.66% Due 4/18/2022	31,035.62	02/21/2018 2.68%	31,033.40 31,034.52	99.27 0.41%	30,808.92 36.69	0.93% (225.60)	Aaa / NR AAA	2.05 0.43
Total ABS		192,552.06	2.69%	192,063.41 192,346.96	2.82%	191,923.39 187.75	5.79% (423.57)	Aaa / AAA AAA	1.55 0.34
AGENCY									
3135G0D75	FNMA Note 1.5% Due 6/22/2020	700,000.00	07/29/2016 1.03%	712,474.00 700,718.30	100.28 0.25%	701,964.90 2,887.50	21.26% 1,246.60	Aaa / AA+ AAA	0.23 0.22
3135G0F73	FNMA Note 1.5% Due 11/30/2020	350,000.00	07/29/2016 1.10%	355,939.50 350,910.60	100.67 0.49%	352,358.30 1,764.58	10.68% 1,447.70	Aaa / AA+ AAA	0.67 0.66
3130A7CV5	FHLB Note 1.375% Due 2/18/2021	350,000.00	07/29/2016 1.13%	353,846.50 350,746.20	100.90 0.35%	353,164.70 574.83	10.67% 2,418.50	Aaa / AA+ AAA	0.89 0.88
3135G0K69	FNMA Note 1.25% Due 5/6/2021	350,000.00	07/22/2016 1.27%	349,744.50 349,941.43	100.80 0.52%	352,797.55 1,762.15	10.69% 2,856.12	Aaa / AA+ AAA	1.10 1.09
Total Agency		1,750,000.00	1.11%	1,772,004.50 1,752,316.53	0.37%	1,760,285.45 6,989.06	53.30% 7,968.92	Aaa / AA+ AAA	0.62 0.62
CMO									
3137BFDQ1	FHLMC K717 A2 2.991% Due 9/25/2021	149,076.95	01/04/2018 2.37%	151,895.44 150,204.35	102.46 1.90%	152,740.65 371.57	4.62% 2,536.30	NR / NR AAA	1.49 1.26
Total CMO		149,076.95	2.37%	151,895.44 150,204.35	1.90%	152,740.65 371.57	4.62% 2,536.30	NR / NR AAA	1.49 1.26

Holdings Report

As of March 31, 2020



CUSIP	Security Description	Par Value/Units	Purchase Date Book Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody/S&P Fitch	Maturity Duration
MONEY MARKET FUND FI									
31846V203	First American Govt Obligation Fund Class Y	445,522.74	Various 0.12%	445,522.74 445,522.74	1.00 0.12%	445,522.74 0.00	13.44% 0.00	Aaa / AAA AAA	0.00 0.00
Total Money Market Fund FI		445,522.74	0.12%	445,522.74 445,522.74	0.12%	445,522.74 0.00	13.44% 0.00	Aaa / AAA AAA	0.00 0.00
US TREASURY									
912828VF4	US Treasury Note 1.375% Due 5/31/2020	375,000.00	08/05/2016 0.99%	380,391.88 375,232.41	100.21 0.11%	375,789.75 1,732.84	11.39% 557.34	Aaa / AA+ AAA	0.17 0.17
912828N89	US Treasury Note 1.375% Due 1/31/2021	375,000.00	08/11/2016 1.07%	380,054.97 375,944.13	101.09 0.06%	379,101.75 864.10	11.46% 3,157.62	Aaa / AA+ AAA	0.84 0.83
Total US Treasury		750,000.00	1.03%	760,446.85 751,176.54	0.09%	754,891.50 2,596.94	22.85% 3,714.96	Aaa / AA+ AAA	0.50 0.50
TOTAL PORTFOLIO		3,287,151.75	1.11%	3,321,932.94 3,291,567.12	0.49%	3,305,363.73 10,145.32	100.00% 13,796.61	Aaa / AA+ AAA	0.61 0.52
TOTAL MARKET VALUE PLUS ACCRUED						3,315,509.05			



Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
ACQUISITIONS										
Purchase	03/02/2020	31846V203	276.34	First American Govt Obligation Fund Class Y	1.000	1.17%	276.34	0.00	276.34	0.00
Purchase	03/16/2020	31846V203	4,462.73	First American Govt Obligation Fund Class Y	1.000	1.17%	4,462.73	0.00	4,462.73	0.00
Purchase	03/16/2020	31846V203	2,163.05	First American Govt Obligation Fund Class Y	1.000	1.17%	2,163.05	0.00	2,163.05	0.00
Purchase	03/16/2020	31846V203	2,834.82	First American Govt Obligation Fund Class Y	1.000	1.17%	2,834.82	0.00	2,834.82	0.00
Purchase	03/18/2020	31846V203	15,466.13	First American Govt Obligation Fund Class Y	1.000	1.17%	15,466.13	0.00	15,466.13	0.00
Purchase	03/25/2020	31846V203	603.08	First American Govt Obligation Fund Class Y	1.000	1.17%	603.08	0.00	603.08	0.00
Purchase	03/31/2020	31846V203	375,000.00	First American Govt Obligation Fund Class Y	1.000	0.12%	375,000.00	0.00	375,000.00	0.00
Purchase	03/31/2020	31846V203	2,109.38	First American Govt Obligation Fund Class Y	1.000	0.12%	2,109.38	0.00	2,109.38	0.00
Subtotal			402,915.53				402,915.53	0.00	402,915.53	0.00
TOTAL ACQUISITIONS			402,915.53				402,915.53	0.00	402,915.53	0.00
DISPOSITIONS										
Paydown	03/16/2020	43811BAC8	4,413.51	Honda Auto Receivables Trust 2017-2 A3 1.68% Due 8/16/2021	100.000		4,413.51	49.22	4,462.73	0.00
Paydown	03/16/2020	47788BAD6	2,145.34	John Deere Owner Trust 2017-B A3 1.82% Due 10/15/2021	100.000		2,145.34	17.71	2,163.05	0.00
Paydown	03/16/2020	47788CAC6	2,759.91	John Deere Owner Trust 2018-A A3 2.66% Due 4/18/2022	100.000		2,759.91	74.91	2,834.82	0.00
Paydown	03/18/2020	43814WAB1	15,153.56	Honda Auto Receivables Trust 2019-1 A2 2.75% Due 9/20/2021	100.000		15,153.56	312.57	15,466.13	0.00



Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
DISPOSITIONS										
Paydown	03/25/2020	3137BFDQ1	230.93	FHLMC K717 A2 2.991% Due 9/25/2021	100.000		230.93	372.15	603.08	0.00
Subtotal			24,703.25				24,703.25	826.56	25,529.81	0.00
Maturity	03/31/2020	912828UV0	375,000.00	US Treasury Note 1.125% Due 3/31/2020	100.000		375,000.00	0.00	375,000.00	0.00
Subtotal			375,000.00				375,000.00	0.00	375,000.00	0.00
Security Withdrawal	03/04/2020	31846V203	319.84	First American Govt Obligation Fund Class Y	1.000		319.84	0.00	319.84	0.00
Security Withdrawal	03/25/2020	31846V203	41.67	First American Govt Obligation Fund Class Y	1.000		41.67	0.00	41.67	0.00
Subtotal			361.51				361.51	0.00	361.51	0.00
TOTAL DISPOSITIONS			400,064.76				400,064.76	826.56	400,891.32	0.00
OTHER TRANSACTIONS										
Interest	03/31/2020	912828UV0	375,000.00	US Treasury Note 1.125% Due 3/31/2020	0.000		2,109.38	0.00	2,109.38	0.00
Subtotal			375,000.00				2,109.38	0.00	2,109.38	0.00
Dividend	03/02/2020	31846V203	42,968.72	First American Govt Obligation Fund Class Y	0.000		276.34	0.00	276.34	0.00
Subtotal			42,968.72				276.34	0.00	276.34	0.00
TOTAL OTHER TRANSACTIONS			417,968.72				2,385.72	0.00	2,385.72	0.00



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

**SUBJECT: CONSIDERATION OF CONTRACT FOR MICROSOFT ENTERPRISE AGREEMENT
WITH SOFTWAREONE**

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager, to execute a three-year agreement, in a form approved by the City Attorney, with SoftwareOne in the amount of \$159,992.47 per year (a total of \$479,977.41) to provide a Microsoft Enterprise Agreement for the City of West Covina based on the terms and conditions of the County of Riverside Master Microsoft Enterprise Agreement #8084445 with Microsoft Corporation.

BACKGROUND:

The City of West Covina's current three-year agreement with SoftwareOne which began in 2017 ends on June 30, 2020. The City's current Microsoft Enterprise Agreement (EA) covers all City departments. This EA helps realize cost savings and reduces redundancy.

The County of Riverside has executed a Microsoft Enterprise License Solution Provider Agreement that may be leveraged by all California State and local government agencies, including the City of West Covina. By utilizing the County of Riverside Agreement, the City of West Covina is able to obtain the deepest discounts on the cost of Microsoft software licenses authorized by Microsoft in the State of California.

DISCUSSION:

Staff has worked with Microsoft to assess current use and needs for software products such as Office, Windows server and desktop, SQL, and Windows Exchange. Through the EA agreement, the City provides employees with essential software to perform job functions. To maintain functionality and keep communication standards with outside organizations; the City has standardized on the use of Microsoft Windows, Office, and Microsoft Server. There is an increase in SQL licenses due to new databases as well as an increase demand for email since more systems are going online, requiring staff that previously did not have email to be added.

The EA provides the City with access to new software released for covered products, and includes access to support. In addition, this agreement makes available to licensees Software Assurance, Microsoft's enhanced maintenance program that helps customers get the most out of their software investments and provides access to valuable benefits including training, deployment planning, software upgrades, and product support.

The City will be able to process and pay Software Assurance annually instead of making one up-front payment;

thereby enabling a reduction in the initial cost outlay and improving the ability to forecast annual software budget requirements up to three years in advance.

OPTIONS:

The City Council has the following options:

1. Adopt staff's recommendation; or
2. Provide alternative direction.

Fiscal Impact

FISCAL IMPACT:

Funding in the 2020-21 budget for Information Technology Fund (Account Number 110.11.1340.6272) will increase from \$92,766.00 to \$113,035.76; a difference of \$20,269.76. For its portion, the Police Department will use previously appropriated special funds, with no change needed, and no impact to the Police Department General Fund budget.

Attachments

- Attachment No. 1 - Quote for City Departments
- Attachment No. 2 - Quote for Police Department
- Attachment No. 3 - Master Agreement with City of Riverside
- Attachment No. 4 - Extension with City of Riverside

CITY COUNCIL GOALS & OBJECTIVES: Enhance City Facilities and Infrastructure
Enhance City Programs and Activities



Quoted by Jason Carmer, SoftwareONE, Inc.

Phone 480-845-7155 jason.carmer@softwareone.com

Please fax your POs to our Client Assistance Center at 800-366-9994 or email to: statestore@softwareone.com - Call 800-400-9852, option 2, to check order status.

	<u>Quoted to:</u>	City of West Covina		
		Shawn Granger		
	Quote# 43943	Shawn.Granger@westcovina.org		
	Date: 4/22/2020			
	Quote expires 5/22/2020	EA# 82695853 - Expires 6/30/2020		
	Important: Please provide the email address of the recipient designated to receive a SoftwareONE order confirmation and/or receive electronic software deliveries.			
Quantity	Part #	Description	Unit Price	Ext. Price
		EA Renewal, effective 7/1/2020 - 6/30/2023		
		City-proper licenses		
230	AAD-34704	M365 E3 GCC Unified ShrdSvr ALNG SubsvL MVL PerUsr	337.92	\$ 77,721.60
230	MQY-00002	EntMobandSecE5FullGCC ShrdSvr ALNG SU MVL EntMobandSecE3GCC PerUsr	62.64	\$ 14,407.20
100	3NS-00003	ExchgOnlnP2GCC ShrdSvr ALNG SubsvL MVL PerUsr. People who work in parks department	70.32	\$ 7,032.00
1	6QK-00001	Azure Monetary Commitment.	1,200.00	\$ 1,200.00
3	9GS-00130	CISSteDCCore ALNG SA MVL 16Lic CoreLic	1,340.85	\$ 4,022.55
1	312-02257	ExchgSvrStd ALNG SA MVL	127.54	\$ 127.54
14	7NQ-00292	SQLSvrStdCore ALNG SA MVL 2Lic CoreLic	591.16	\$ 8,276.24
	Total			\$ 112,787.13
	Tax	ESD - nontaxable. Please type "Electronic Software Delivery" on your PO.		\$ -
	Shipping			No Charge
		Annual Payment		\$ 112,787.13
		<i>Total 3-year commitment</i>	\$ 338,361.39	

Pass-Through Warranty and Other Rights. As a reseller, end-user warranties and liabilities (with respect to any third party software products provided by SoftwareONE) shall be provided as a pass-through from the manufacturer of such products. All software products are subject to the license agreement of the applicable software supplier, as provided with the software packaging or in the software at time of shipment.



Quoted by Jason Carmer, SoftwareONE, Inc.

Phone 480-845-7155 jason.carmer@softwareone.com

Please fax your POs to our Client Assistance Center at 800-366-9994 or email to: statestore@softwareone.com - Call 800-400-9852, option 2, to check order status.

Quoted to:

City of West Covina

Alex Houston

Alex.houston@wcpd.org

Quote# 43943

Date: 4/22/2020

Quote expires 5/22/2020

EA# 82695853 & 6681311 - Expires 6/30/2020

Important: Please provide the email address of the recipient designated to receive a SoftwareONE order confirmation and/or receive electronic software deliveries.

Quantity	Part #	Description	Unit Price	Ext. Price
EA renewal. Effective 7/1/2020 - 6/30/2023				
PD licenses				
100	KV3-00353	WINENTperDVC ALNG SA MVL Pltfrm	41.64	\$ 4,164.00
100	269-12442	OfficeProPlus ALNG SA MVL Pltfrm	93.84	\$ 9,384.00
180	W06-01072	CoreCAL ALNG SA MVL Pltfrm UsrCAL	44.52	\$ 8,013.60
1	9GA-00310	CISSteStdCore ALNG SA MVL 16Lic CoreLic	271.50	\$ 271.50
2	9EM-00267	WinSvrSTDCore ALNG SA MVL 16Lic CoreLic	140.40	\$ 280.80
5	9GS-00130	CISSteDCCore ALNG SA MVL 16Lic CoreLic	1,340.85	\$ 6,704.25
5	77D-00111	VSPProSubMSDN ALNG SA MVL	309.61	\$ 1,548.05
10	7NQ-00292	SQLSvrStdCore ALNG SA MVL 2Lic CoreLic	591.16	\$ 5,911.60
9	6QK-00001	Azure Monetary Commitment. Under EA enrollment# 6681311	1,200.00	\$ 10,800.00
1	312-02177	ExchgSvrStd ALNG LicSAPK MVL	127.54	\$ 127.54
Total				\$ 47,205.34
Tax		ESD - nontaxable. Please type "Electronic Software Delivery" on your PO.		\$ -
Shipping				No Charge
Total				\$ 47,205.34
			3-year total commitment	\$ 141,616.02

Pass-Through Warranty and Other Rights. As a reseller, end-user warranties and liabilities (with respect to any third party software products provided by SoftwareONE) shall be provided as a pass-through from the manufacturer of such products. All software products are subject to the license agreement of the applicable software supplier, as provided with the software packaging or in the software at time of shipment.

Licensing Solution Provider Agreement Number PSA-0001530

This Licensing Solution Provider Agreement is made and entered into this 22nd day of October 2019, by and between Software One, Inc., a Wisconsin corporation ("CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("COUNTY").

WHEREAS, COUNTY and Microsoft Corporation ("Microsoft") have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the "Master Agreement"), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR desires to provide support to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses under this Agreement and hereby represents that it has the skills, experience, and knowledge necessary to perform under this Agreement; and

WHEREAS, COUNTY desires to accept CONTRACTOR's services under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. This Agreement covers all enrollments for all products licensed under the Master Agreement. All terms and conditions of the Master Agreement, attached as Exhibit E of this Agreement and incorporated by reference, shall apply to the purchase of related products and services.
2. This Agreement is available for use by all government entities within the State of California (an "Enrolled Affiliate") for the duration of the Term (defined below in section 4). Enrollment documents will contain the terms and conditions specific to each entity.
3. CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this agreement to each and every government entity in the State of California. Terms and conditions are governed by this Agreement, the Master Agreement, and the applicable enrollment documents for each entity. Entities shall make purchases in their own name, make direct payment to CONTRACTOR, and be liable directly to CONTRACTOR for all obligations.
 - 3.1 COUNTY shall in no way be responsible to CONTRACTOR for Enrolled Affiliates' purchases and obligations. COUNTY shall in no way be responsible to other entities for their purchases or any acts or omissions of CONTRACTOR, including but not limited to product selection or implementation, services or other related matters.
 - 3.2 CONTRACTOR shall notify Enrolled Affiliate in writing of the terms and conditions stated in Section 11.
4. This Agreement shall be effective from November 1, 2019 through October 31, 2021, unless terminated earlier (the "Term").
5. Hold Harmless/Indemnification:
 - 5.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services, or acts or omissions, of CONTRACTOR, its

Licensing Solution Provider Agreement Number PSA-0001530

officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

- 5.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.
 - 5.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.
6. Contractor Responsibilities: CONTRACTOR will offer the following services to each Enrolled Affiliate at no additional charge. It is the responsibility of the Enrolled Affiliate to determine which products and/or services, if any, meet their needs and communicate that to the CONTRACTOR.
 - 6.1 Provide reports showing year to date annual spend according to Enrolled Affiliate's specifications. Frequency will be determined by each Enrolled Affiliate (monthly, quarterly, etc.).
 - 6.2 Provide a short synopsis of why an amendment is needed and the ramification of each amendment to an enrollment at the time of such amendment.
 - 6.3 Provide an updated price list on an annual basis or when requested by Enrolled Affiliate.
 7. CONTRACTOR's Microsoft Enterprise Agreement license subscription price attached hereto as Exhibit A and service rates attached hereto as Exhibit B.
 8. CONTRACTOR's Microsoft Enterprise Agreement Participation Form attached hereto as Exhibit C and incorporated herein by reference.
 9. Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by February 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivco.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.
 10. Administrative fees: CONTRACTOR will be charged .5% of the annual enrollment amount to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee; per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually (100K*.5%). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the

Licensing Solution Provider Agreement Number PSA-0001530

“Reporting of Active Enrollments” list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date.

10.1 Riverside County Information Technology (RCIT) will invoice the CONTRACTOR annually based on the enrollments verified. Payment is due to RCIT within thirty (30) days of invoice date. The COUNTY will not accept credit as a form of payment.

10.2 Failure to meet the administrative fee requirements herein and submit fees on a timely basis may constitute grounds for immediate termination of this Agreement.

11. Contract Management: The contacts for this Agreement for COUNTY shall be both RCIT and Purchasing as listed below.

COUNTY Primary Contact:
Jim Smith
3450 14th Street
Riverside, CA 92501

COUNTY Secondary Contact:
Rick Hai
2980 Washington Street
Riverside, CA 92504

CONTRACTOR contact:
Shelly Bodine
20875 Crossroads Circle, Suite 1
Waukesha, WI 53186

11.1 Should Contract Management contact information change, the CONTRACTOR shall provide written notice with the updated information to the COUNTY no later than 10 business days after the change.

12. Termination:

12.1 COUNTY may terminate this Agreement without cause upon thirty (30) days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

12.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

12.3 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

13. Conduct of Contractor:

13.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees

Licensing Solution Provider Agreement Number PSA-0001530

to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

- 13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.
 - 13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.
 - 13.4 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.
14. Independent Contractor/Employment Eligibility/Non-Discrimination:
- 14.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.
 - 14.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.
 - 14.3 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964

Licensing Solution Provider Agreement Number PSA-0001530

(P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.


15. Entire Agreement: This Agreement, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political subdivision of the State of California

Software One, Inc., a Wisconsin corporation


By: 
Kevin Jeffries, Chairman
Board of Supervisors

By: 
Margarita Apodaca
Operations Analyst

Dated: OCT 22 2019

Dated: 10/16/2019

ATTEST:
Kecia Harper
Clerk of the Board

By: 
Terrance Williams
Deputy

By: 
Laura Reyes
Account Team Manager

Dated: 10/16/2019

APPROVED AS TO FORM:
Gregory P. Priamos
County Counsel

By: 
Susanna Oh, Deputy County Counsel

Licensing Solution Provider Agreement Number PSA-0001530

Exhibit A

Microsoft Enterprise license subscription and services

Line	Description	Price Level	Markup %
1	Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups) M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5.	Level D Minus 2%	2.10
2	Enterprise Products Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite.	Level D	2.10
3	Additional Products M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.	Level D	2.10
4	Server and Tools Product (applies to Server and Cloud Enrollments only) SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.	Level D	2.10
5	All products for Select Plus Agreement No.7756479.		3.50
6	Microsoft Premier Support		2.10
7	Microsoft Unified Support Services		2.10
8	Microsoft Consulting Services		20.00

Licensing Solution Provider Agreement Number PSA-0001530

Exhibit B
License Support Provider (LSP) service rates

Line	Description	Certified Competency (Yes/No)	Hourly Rate
Data and Artificial Intelligent			
1	Build Intelligent Apps	Yes	\$175
2	Build Intelligent Agents	Yes	\$175
3	Machine Learning	Yes	\$175
4	Internet of Things	Yes	\$175
5	Globally distributed data	Yes	\$175
6	OSS Databases	Yes	\$175
7	Cloud Scale Analytics	Yes	\$175
8	Data Platform Modernization to Azure	Yes	\$175
9	Windows Server on Azure	Yes	\$175
10	Security & Management	Yes	\$175
11	Datacenter Migration	Yes	\$175
12	Modern Business Intelligence	Yes	\$175
Biz Apps			
1	Customer Service	No	\$175
2	Field Service	No	\$175
3	Marketing	No	\$175
4	Talent	No	\$175
5	Finance and Operations	No	\$175
6	Business Central	No	\$175
7	Power Apps	Yes	\$175
8	Power BI	Yes	\$175
Apps and Infrastructure			
1	Azure Stack	Yes	\$175
2	High Performance Compute	Yes	\$175
3	Cloud Native Apps using Serverless	Yes	\$175
4	Modernize Apps	Yes	\$175
5	SAP on Azure	Yes	\$175
6	Linux on Azure	Yes	\$175
7	Dev Ops	Yes	\$175
8	Business Continuity & Disaster Recovery	Yes	\$175
9	Windows Server on Azure	Yes	\$175
10	Security & Management	Yes	\$175
11	Datacenter Migration	Yes	\$175

Licensing Solution Provider Agreement Number PSA-0001530

**Exhibit B (cont.)
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Modern Workplace		
1	User Adoption & Change Management	Yes	\$175
2	Security	Yes	\$175
3	GDPR & Compliance	Yes	\$175
4	Teamwork	Yes	\$175
5	Calling & Meetings	Yes	\$175
6	Modern Desktop	Yes	\$175
7	Office 365 Migration Assistance	Yes	\$175
7a	Mail	Yes	\$175
7b	Teams	Yes	\$175
7c	SharePoint	Yes	\$175
7d	OneDrive	Yes	\$175

Licensing Solution Provider Agreement Number PSA-0001530

Exhibit C
Microsoft LSP Participation Form

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILBER, ACIO
Enterprise Applications Bureau
GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications
GIL MEJIA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form
(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to:
Attention: Rick Hai
E-mail: RHai@rivco.org
Payment should be made to:
Riverside County Information Technology
3450 14th Street, Fourth Floor
Riverside, CA 92501
County of Riverside TIN #: 95-6000930

Company Name: Software One, Inc.
Name: Shelly Bodine Title: SLED General Manager
Address: 20875 Crossroads Cir, STE 1
City: Waukesha, WI Zip Code: 53186 Telephone #: 800-400-9852
Fax #: Email: Shelly.Bodine@SoftwareONE.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.

Signature

9/16/2019
Date

Shelly Bodine
Printed Name

SLED General Manager
Title

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILBER, ACIO
Enterprise Applications Bureau

GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications

GIL MEJIA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form

(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to: Attention: Rick Hai E-mail: RHai@rivco.org	Payment should be made to: Riverside County Information Technology 3450 14th Street, Fourth Floor Riverside, CA 92501 County of Riverside TIN #: 95-6000930
---	--

Company Name: Software One, Inc.
Name: Shelly Bodine Title: SLED General Manager
Address: 20875 Crossroads Cir. STE 1
City: Waukesha, WI Zip Code: 53186 Telephone #: 800-400-9852
Fax #: _____ Email: Shelly.Bodine@SoftwareONE.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.


Signature

10/16/2019
Date

Margarita Apodaca
Printed Name

Operations Analyst
Title

Exhibit D
Microsoft LSP Reporting of Active Enrollments Form

LSP Name	Company name		Enrollment Entity:	Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
RIVCO Contract ID	RIVCO-20800-00x-xx/xx								
Microsoft Agreement Numbers	01E69633, 01E73134, AND NEW		Riverside County Information Technology	1/01/12	12/31/16	\$645,000.00	John Doe	John.Doe@riverside.org	951-555-1212
Master Enrollment		Enrollment Number:							
8084445		87654321							

Licensing Solution Provider Agreement Number PSA-0001530

Exhibit E
Master Agreement

Attached include the followings:

- 1) Signature Form
- 2) Microsoft Enterprise Agreement
- 3) Microsoft Enterprise Agreement Amendment

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Signature Form

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

Country:

United States

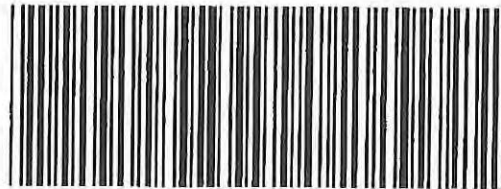
Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.

Program/Version

EA 6 2016



(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:



Program Signature Form

MBA/WESA number		004-kaylead-S-04
Agreement number	808444S	

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.


Contract Document	Number or Code
Enterprise Agreement	X20-10209
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Amendment to Contract Documents	CTM-CPT-OPT-FWK (new)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
Name of Entity (must be legal entity name)* County of Riverside
Signature* <i>[Signature]</i>
Printed First and Last Name* Richard R. Hai
Printed Title Sr. Procurement Contract Specialist
Signature Date* 08/22/2019
Tax ID

* indicates required field

FORM APPROVED COUNTY COUNSEL
 BY *[Signature]* 8/22/19
 SUSANNA N. OH DATE

Microsoft Affiliate	
Microsoft Corporation	
Signature 	 Microsoft Microsoft Corporation AUG 23 2019 Chance Krail Duly Authorized on behalf of Microsoft Corporation
Printed First and Last Name	
Printed Title	
Signature Date <small>(date Microsoft Affiliate countersigns)</small>	
Agreement Effective Date <small>(may be different than Microsoft's signature date)</small>	8/23/2019

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA

Microsoft Document Headersheet

* This is for informational purposes only *

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

[REDACTED] Agreement

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

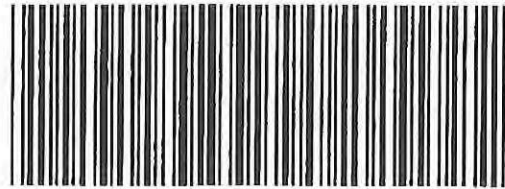
Country:

United States

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

15

Comments:



Enterprise Agreement

State and Local

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement ("Agreement") is entered into between the entities identified on the signature form.

Effective date. The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

Please note: Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

Terms and Conditions

1. Definitions.

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
 - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

"Customer" means the legal entity that has entered into this Agreement with Microsoft.

"Customer Data" means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

"day" means a calendar day, except for references that specify "business day".

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates that has entered into an Enrollment under this Agreement.

"Enrollment" means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

"Enterprise" means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Microsoft" means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Volume Licensing Site and updated from time to time.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

"Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

"Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"Software Assurance" is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

"Use Rights" means the use rights or terms of service for each Product published on the Volume Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. How the Enterprise program works.

- a. **General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

3. **Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.**
- (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to Enterprise's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless the Enrolled Affiliate chooses to have those changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the Agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
 - (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
- (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.
 - (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.

- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

4. ***Making copies of Products and re-imaging rights.***

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
 - (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. ***Transferring and reassigning Licenses.***

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully-paid perpetual Licenses to:
 - (i) an Affiliate, or
 - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (A) a privatization of an Affiliate or agency or of an

operating division of Enrolled Affiliate or an Affiliate. (B) a reorganization, or (C) a consolidation.

Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.

- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

6. **Term and termination.**

- a. **Term.** The term of this Agreement will be 36 full calendar months from the effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:
 - (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or

(ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:

- 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
- 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.

(iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:

- 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
- 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

f. **Effect of termination or expiration.** When an Enrollment expires or is terminated,

(i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.

(ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.

g. **Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.

h. **Program updates.** Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

7. ***Use, ownership, rights, and restrictions.***

a. **Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.

b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.

c. **Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.

- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (i) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (ii) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

8. Confidentiality.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without a confidentiality obligation, (c) is independently developed, or (d) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

9. Privacy and compliance with laws.

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection

law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

10. **Warranties.**

a. **Limited warranties and remedies.**

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. **Defense of third party claims.**

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or

non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate was required to pay for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify compliance with the Product's license terms. Enrolled Affiliate must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use or distribution, then within 30 days, (1) Enrolled Affiliate must order sufficient Licenses to cover that use or distribution, and (2) if unlicensed use or distribution is 5% or more, Enrolled Affiliate must reimburse Microsoft for the cost Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the price based on the then-current price list and Enrolled Affiliate price level. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not subject Enrolled Affiliate to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this Agreement or to protect its intellectual property by any other means permitted by law.
- c. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations.

14. *Miscellaneous.*

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate, but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.
- h. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. **Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. **Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

- n. **Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- o. **Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to:

- MBSA
- Agreement
- Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* County of Riverside
Contact name*: First Regina Last Funderburk
Contact email address* RFunderburk@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* California Postal code* 92501-3861
Country* USA
Phone* 951-955-2265 Fax

This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* County of Riverside
Contact name*: First Regina Last Funderburk
Contact email address* RFunderburk@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. Subscriptions manager.

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* County of Riverside

Contact name*: First Regina Last Funderburk

Contact email address* RFunderburk@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. Online services manager.

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. Customer Support Manager (CSM).

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

6. Primary contact information.

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* County of Riverside

Contact name*: First Jim Last Smith
Contact email address* jimsmith@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* CA Postal code* 92501-3861
Country* US
Phone* 951-231-5909 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Microsoft Document Headersheet

** This is for informational purposes only **

<u>MSE#:</u> (MSLI Tracking Number)	5-0000004275258
<u>Doc Type:</u>	Amendments

Do not modify the formatting or spacing of this Form above this text

<u>Subsidiary:</u>	<u>Account Manager Name / Alias:</u>
Country: United States	
<u>LAR/LAD/ESA:</u> Insight Direct USA, Inc.	
<u>Program/Version</u> EA 6 2016	(Scanning Code)

ACCOUNT: County of Riverside	3
Outsourcer Name:	
Business Agreement Number:	
Master Agreement Number: 8084445	
Agreement Number:	
Purchase Order Number:	

Comments:

Amendment to Contract Documents

Agreement Number

808445
004-kayleed-S-04

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Agreement Custom Terms CTM

1. Section 6a, "Term", is hereby amended and restated as follows:
 - a. Term. The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
2. The pricing that Microsoft will offer Enrolled Affiliate's Reseller for Enrollments effective between November 1, 2019 through October 31, 2021, and that will apply for the entire initial term of such Enrollments, is as follows:

Product	Price Level	Examples include but are not limited to the following*:
Enterprise Online Services** (including Full USLs, from SA USLs, Add-ons and Step Ups)	Level D minus 2%	M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5
Enterprise Products	Level D	Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite
Additional Products	Level D	M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.
Server and Tools Product (applies to Server and Cloud Enrollments only)	Level D	SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.

* The examples include online services that are available in either the commercial or government cloud offerings.

**Qualifying Enterprise Online Services are identified in the Product Terms with the cell value of "EO" in the tables for "Program Availability". The scope of Enterprise Online Services is subject to change as Enterprise Online Services are added, updated/ revised or removed from the Enterprise program offering.

Exclusions apply to the additional 2% discount on Enterprise Online Services as follows:

- The price list month that applies to an order is not a factor in determining whether the additional 2% discount on Enterprise Online Services may be applied to an order. The only applicable factor is the effective date of the Enrollment.
- The discount does not apply to any extensions of the initial Term or renewal Enrollments.
- The discount does not apply to any promotional SKUs. Enrolled Affiliate is entitled to the lower of the promotional price or discounted price.

The price level that applies to Enrollments effective on or after November 1, 2021 is Level D for all Products.

The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Riverside County EA Amend 8.7.docx	CTM	CTM-CPT-OPT-FWK	BD
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COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE LICENSING SOLUTION PROVIDER AGREEMENT
 WITH
 Software One, Inc.

Original Contract Term:	11/01/2019 through 10/31/2021
Original Contract ID:	PSA-0001530
Effective Date of Amendment:	04/01/2020
Original Annual Maximum Contract Amount:	\$0
Amended Annual Maximum Contract Amount:	\$0

This AMENDMENT NO. 1 TO THE LICENSING SOLUTION PROVIDER AGREEMENT with Software One, Inc. (“First Amendment”), dated as of 01 April 2020, is entered into by and between the County of Riverside (“COUNTY”), a political subdivision of the State of California, and Software One, Inc. (“CONTRACTOR”), a Wisconsin corporation, sometimes collectively referred to as the “Parties”.

RECITALS

WHEREAS, COUNTY and Microsoft Corporation (“Microsoft”) have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the “Master Agreement”), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR and COUNTY entered into the aforementioned Licensing Solution Provider Agreement Number PSA-0001530 (the “Agreement”) to provide support services to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses; and

WHEREAS, COUNTY and CONTRACTOR now desire to amend the Agreement for the first time to extend the period of performance of the Agreement.

NOW, THEREFORE, for good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. The above recitals are true and correct, and are incorporated herein by reference.
2. Section 4 of the Agreement is hereby deleted in its entirety and replaced with the following:

 “This Agreement shall be effective from November 1, 2019 through October 31, 2024, unless terminated earlier (the “Term”).”
3. Section 9 of the Agreement is hereby deleted in its entirety and replaced with the following:

 “Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by December 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivco.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.”
4. Capitalized Terms/Amendment to Prevail. Unless defined herein or the context requires otherwise, all capitalized terms herein shall have the meaning defined in the Agreement, as heretofore

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE LICENSING SOLUTION PROVIDER AGREEMENT
WITH
Software One, Inc.

amended. The provisions of this First Amendment shall prevail over any inconsistency or conflicting provisions of the Agreement, as heretofore amended, and shall supplement the remaining provisions thereof.

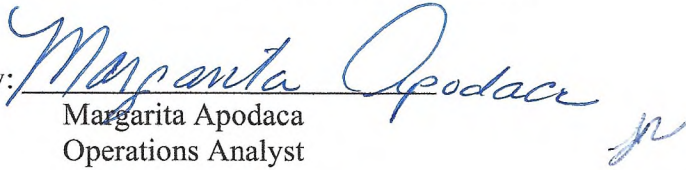
5. Miscellaneous. Except as amended or modified herein, all the terms of the Agreement shall remain in full force and effect and shall apply with the same force and effect. Time is of the essence in this First Amendment and the Agreement and each and all of their respective provisions. Subject to the provisions of the Agreement as to assignment, the agreements, conditions and provisions herein contained shall apply to and bind the heirs, executors, administrators, successors and assigns of the parties hereto. If any provisions of this First Amendment or the Agreement shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of the Agreement and all such other provisions shall remain in full force and effect. The language in all parts of the Agreement shall be construed according to its normal and usual meaning and not strictly for or against either COUNTY or CONTRACTOR.
6. Effective Date. This First Amendment shall not be binding or consummated until its approval by the Riverside County Board of Supervisors and fully executed by the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this First Amendment.

COUNTY OF RIVERSIDE, a political subdivision of the State of California

Software One, Inc., a Wisconsin corporation

By: _____
Richard R. Hai
Senior Procurement Contract Specialist

By: 
Margarita Apodaca
Operations Analyst

Dated: _____

Dated: 4/21/2020

APPROVED AS TO FORM:
Gregory P. Priamos
County Counsel

By: _____
Susanna Oh
Deputy County Counsel



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

SUBJECT: CONSIDERATION OF RESOLUTION NO. 2020-41 EXTENDING THE LOCAL EMERGENCY DECLARATION

RECOMMENDATION:

That the City Council adopt Resolution 2020-41 as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DETERMINING THE NEED TO CONTINUE THE LOCAL EMERGENCY PROCLAIMED ON MARCH 16, 2020

BACKGROUND:

On March 17, 2020, the City Council adopted Resolution 2020-19, ratifying Proclamation 2020-01 declaring existence of a local emergency, which was issued by the City Manager acting in the capacity of Director of Emergency Services. The local emergency is due to the novel coronavirus (COVID-19) pandemic. Following adoption of the resolution, the City Council needs to review and reevaluate the need for continuing the local emergency at least once every thirty (30) days in conformance with Section 8-7(a)(2) of the West Covina Municipal Code (WCMC). The City Council previously continued the local emergency on April 7, 2020.

DISCUSSION:

The City Manager acting in the capacity of Director of Emergency Services has mobilized appropriate staff and other resources on a daily basis to address the COVID-19 pandemic. Staff at all levels of the organization have been engaged in the response.

As of April 26, 2020, there were 2,804,796 confirmed cases of COVID-19 globally and 42,164 confirmed cases in California. As of the same date, there were 19,528 confirmed cases in Los Angeles County, including 104 confirmed cases in the City of West Covina according to the Los Angeles County Department of Public Health. Health officials expect the number of cases in California, the United States and worldwide to increase. It is essential that the City continue to provide basic services and provide for continuity of services over the long-term. Staff is requesting that the City Council continue the local emergency.

The current "Safer At Home" order issued by Los Angeles County Health Department expires May 15, 2020. At

this time it is unknown whether the order will be extended but staff at multiple levels of the City is monitoring the situation. However, it is clear that large scale community events will need to be modified or canceled through the end summer. Based upon that, staff is canceling the planned July 4th parade and picnic. The summer concert series is also being canceled. Public health and safety is the City's guiding principle and canceling these events is the responsible step to take. Staff will continue to monitor the situation and explore the possibility of having a Labor Day event, if an event can be safely held in early September. Further updates will be provided to the City Council as information becomes available.

Two (2) written orders have been issued by the City Manager acting as Director of Emergency Services, since the adoption of Resolution 2020-22.

<u>Date</u>	<u>Subject</u>
April 27	Freeze purchasing and hiring
April 28	Cancel large scale community events through September 1, 2020

The orders are attached as Exhibit ":A" to the Resolution.

Each of the orders was and continues to be necessary to address the local emergency. The City Council is hereby requested to approve and confirm the written orders pursuant to Section 8-7(a)(7) of the West Covina Municipal Code.

LEGAL REVIEW:

The City Attorney's Office has reviewed and approved the proposed resolution as to form.

OPTIONS:

The options available to the City Council are as follows:

1. Adopt the resolution as submitted.
2. Determine the local emergency has ceased.
3. Provide alternative direction.

Prepared by: Mark Persico, Assistant City Manager

Attachments

Attachment No. 1 - Resolution No. 2020-41 (Extending Local Order)

CITY COUNCIL GOALS & OBJECTIVES: Achieve Fiscal Sustainability and Financial Stability
Enhance Public Safety

RESOLUTION NO. 2020-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DETERMINING THE NEED TO CONTINUE THE LOCAL EMERGENCY PROCLAIMED ON MARCH 16, 2020

WHEREAS, the California Emergency Services Act (Government Code Section 8550 et seq.) authorizes the City Council, or an official designated by ordinance adopted by the City Council, to proclaim a local emergency when the City is threatened by conditions of disaster or extreme peril to the safety of persons and property within the City that are likely to be beyond the control of the services, personnel, equipment, and facilities of the City; and

WHEREAS, West Covina Municipal Code section 8-7(a)(1) empowers the City Manager, as the Director of Emergency Services, to declare the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity; and

WHEREAS, on March 16, 2020, the City Manager declared a local emergency as authorized by Government Code section 8630(a) and West Covina Municipal Code section 8-7(a)(1) through Proclamation No. 2020-01; and

WHEREAS, on March 17, 2020, the City Council adopted Resolution No. 2020-19, ratifying the City Manager's proclamation as required by Government Code section 8630(b) and West Covina Municipal Code section 8-7(a)(1); and

WHEREAS, Section 8-7(a)(2) of the West Covina Municipal Code empowers the City Manager to request that the City Council review the need for continuing the local emergency at least once every 30 days until the City Council terminates the local emergency; and

WHEREAS, at the time the City Council ratified the proclamation, the World Health Organization (WHO) reported, as of March 15, 2020, 153,517 confirmed cases of COVID-19 globally, 5,735 of which resulted in death. As of April 26, 2020, the WHO reported 2,804,796 confirmed cases globally, 193,710 of which resulted in death; and

WHEREAS, at the time the City Council ratified the proclamation, the California Department of Public Health (CDPH) reported that, as of March 15, 2020, there were 335 confirmed cases of COVID-19 in California, six (6) of which resulted in death. As of April 26, 2020, CDPH reported there were 42,164 confirmed cases in California, 1,710 of which resulted in death; and

WHEREAS, at the time the City Council ratified the proclamation, the Los Angeles County Department of Public Health ("LA County Health Department") reported that, as of March 15, 2020, Los Angeles County had 69 confirmed cases, including one (1) death and one (1) confirmed case at West Covina High School. As of April 26, 2020, the LA County Health Department reported 19,528 confirmed cases, 913 of which resulted in death; and

WHEREAS, as of April 26, 2020, the LA County Health Department reported 104 confirmed cases in the City of West Covina; and

WHEREAS, health officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS, on April 7, 2020, the City Council adopted Resolution No. 2020-22, determining there was a need to continue the local emergency and confirming the written orders and regulations promulgated by the City Manager; and

WHEREAS, the City Manager has requested that the City Council review the need for continuing the local emergency in accordance with Section 8-7(a)(2) of the West Covina Municipal Code; and

WHEREAS, the City Council has reviewed the need for continuing the local emergency as required by West Covina Municipal Code section 8-7(a)(2); and

WHEREAS, the City Council finds that the conditions resulting from the COVID-19 emergency are still beyond the control of the services, personnel, equipment, and facilities of the City and require the combined forces of other political subdivisions to combat; and

WHEREAS, Section 8-7(a)(7) of the West Covina Municipal Code permits the City Manager to promulgate written orders and regulations to provide for the protection of life and property as affected by the emergency, and requires that such rules and regulations be confirmed at the earliest practicable time by the City Council; and

WHEREAS, the City Manager has promulgated the written orders and regulations set forth in Exhibit "A," attached hereto and incorporated herein by this reference; and

WHEREAS, the City Council desires to confirm such written orders and regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council has reviewed the need for continuing the local emergency as required by West Covina Municipal Code section 8-7(a)(2), and determines, based on the foregoing recitals, that there is a need to continue the local emergency.

SECTION 2. This local emergency shall continue to exist until the City Council proclaims the termination of the local emergency. The City Council shall review the need for continuing the local emergency in the manner required by law.

SECTION 3. The City Council confirms the orders and regulations set forth in Exhibit A.

PASSED AND ADOPTED this 5th day of May, 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-41 was duly adopted by the City Council of the City of West Covina, California, at a special meeting thereof held on the 5th day of May 2020, by the following vote of the City Council:

AYES:

NOES:


ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk

**RESOLUTION NO. 2020-41
EXHIBIT A**

**WRITTEN ORDERS AND REGULATIONS PROMULGATED BY THE CITY
MANAGER DURING LOCAL EMERGENCY**

Date: April 27, 2020
From:  David Carmany, City Manager
To: All City Employees
Subject: COVID-19 Impacts on City Finances

Unfortunately, due to the on-going local emergency caused by the COVID-19 pandemic, the City anticipates a significant loss of revenue, which, in turn, will have a significant impact on City finances. Accordingly, the City is actively in the process of addressing this unprecedented economic and financial challenge. The City is undertaking a comprehensive assessment of its operations and services, and will also engage with labor groups on various options for cost savings. The City is also freezing or dramatically reducing purchases and other large-scale expenditures. This is an unprecedented moment in time, and the City appreciates your efforts and patience during it.

Date: April 28, 2020

From:  David Carmany, City Manager

To: All City Employees

Subject: Cancellation of Large Scale Community Events through September 1, 2020

Due to the on-going local emergency and the lack of wide-scale testing for COVID-19, all large scale community events are hereby canceled through September 1, 2020. Large scale events are defined as any community event that is anticipated to gather a group of more than 250 people. This includes, at a minimum, the summer concert series and the July 4th parade and picnic.

I will continue to explore the safety of hosting a Labor Day event the weekend of September 7, 2020. A decision regarding such an event will be made over the summer as additional public health information becomes available.



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

SUBJECT: CONSIDER APPROVAL OF UPDATED BUDGET AND FINANCIAL POLICIES

RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. 2020-35 Approving Updated Financial and Budget Policies.

BACKGROUND:

On February 4, 2020, the City Council initiated the process for the issuance of Pension Obligation Bonds (POB's) to refund outstanding obligations to the California Public Employees Retirement System (CalPERS). The ultimate issuance of those bonds requires further approval by the City Council.

DISCUSSION:

Staff has been working with the finance team to assure that the City obtains the best possible bond rating and the lowest borrowing costs. One of the best management practices is to review and assure that the City has updated policies related to city finances. Staff is recommending that the City Council update the following policies:

- Budget Policy - This policy establishes a budget process to help decision makers make informed choices about the provision of services and capital assets and to promote stakeholder participation in the process.
- Debt Management - This policy establishes guidelines for the issuance and management of debt
- Disclosure - This policy is intended to ensure that the City remains in compliance with all applicable securities laws.
- Computer/IT Backup - This policy is designed and implemented with disaster recovery/business continuity as key deliverable and is not designed as a method of archiving material for extended periods of time.
- Pension Funding Policy (New) - This policy provides guidance in making annual budget decisions; demonstrates prudent financial management practices; create sustainable and affordable budgets for pensions; and reassures bond rating agencies.

These policies show that the City has strong internal controls and will be beneficial as the City moves forward toward issuing the Pension Obligation Bonds.

Prepared by: Mark Persico, Assistant City Manager

Additional Approval: Robbeyn Bird, CPA, Finance Director

Attachments

Attachment No. 1 - Resolution 2020-35 (Budget and Financial Policies)

CITY COUNCIL GOALS & OBJECTIVES: Achieve Fiscal Sustainability and Financial Stability
Enhance the City Image and Effectiveness

RESOLUTION NO. 2020-35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ADOPTING FINANCIAL AND BUDGET POLICIES

WHEREAS, the City Council of the City of West Covina, California is adopting financial and budget policies as a best management practice.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council has reviewed and approved the following policies:

- A. Budget Policy
- B. Debt Management Policy
- C. Disclosure Policy
- D. Information Technology Backup Policy
- E. Pension Funding Policy

SECTION 2. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

PASSED AND ADOPTED this 5th day of May, 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-35 was duly adopted by the City Council of the City of West Covina, California, at a special meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk

EXHIBIT A

FINANCIAL AND BUDGET POLICIES



City of West Covina

Budget Policy

Updated – May 5, 2020

INTRODUCTION

This document defines the policies and procedures for the budget for the City of West Covina.

The procedures serve as a guide for maintaining the City's reputation for fairness and integrity of fiscal responsibility in preparation of the annual budget using proper checks and balances. The budget functions will be conducted using the highest ethical standards.

The objective of the budget policy is to establish a budget process that helps decision makers make informed choices about the provision of services and capital assets and to promote stakeholder participation in the process. The term "stakeholder" refers to anyone affected by or has a stake in the City of West Covina with priority to residents and West Covina businesses. The use of "shall" is synonymous with will.

POLICY PURPOSE

Policy and procedures have been established in order to provide the most efficient and effective operations of preparing the budget. The budget process will cover four main Goals:

1. Establish Broad Goals to Guide City Decision Making

- The City Council does adopt broad goals on an annual basis that provide overall direction for the City and serve as a basis for decision making.
 - i. Assess community needs, priorities, challenges and opportunities.
 - ii. Identify opportunities and challenges for City services, capital assets, and management.
 - iii. Develop and disseminate broad goals.

2. Develop Approaches to Achieve Goals

- The City will utilize specific policies, plans, programs, and management strategies to define how it will achieve its long-term goals.
 - i. Adopt and review financial policies.
 - ii. Develop programs, services, operating, and capital policies and plans.
 - iii. Develop management strategies.

3. Develop a Budget Consistent with Approaches to Achieve Goals

- A financial plan and budget that moves toward achievement of goals, within the constraints of available financial resources, is to be prepared and adopted.
 - i. Develop a process for preparing and adopting a budget.
 - ii. Make choices necessary to adopt a budget.

4. Evaluate Performance and Make Adjustments

- Programs and financial performance will be continually evaluated, and adjustments made, to encourage progress toward achieving goals.
 - i. Monitor, measure, and evaluate performance.
 - ii. Make adjustments as needed.

Goal # 1 - Establish Broad Goals to Guide City Decision Making

i. Assess Community Needs, Priorities, Challenges, and Opportunities

- A. Identify Stakeholder Priorities, Needs, and Concerns
 - The City Council meetings are an open forum providing opportunity to stakeholders to bring forth concerns, needs, and priorities.
 - Among other mechanisms that might be considered are special public hearings, surveys, meetings of leading residents and resident interest groups, City strategic planning processes, meetings with City employees, and workshops involving City administrative staff and/or the City Council.

- B. Evaluate Community Condition, External Factors, Opportunities, and Challenges¹
 - The City Council will regularly collect and evaluate information about trends in community condition, the external factors affecting it, opportunities that may be available, and problems and issues that need to be addressed.
 - Some mechanisms will involve data gathering from pre-existing sources or through opinion surveys.
 - Other mechanisms will be subjective, such as observing physical characteristics of geographic areas within the community or talking to residents, experts, business and community leaders, and legislative bodies. Formal studies of particular issues or trends may also be undertaken.
 - The frequency and extensiveness of the evaluation should be consistent with how frequently the information changes and the relative importance of the information being gathered.

ii. Identify Opportunities and Challenges for City Services, Capital Assets, and Management

- A. Assess Services and Programs, and Identify Issues, Opportunities, and Challenges
 - The City shall inventory, identify, and assess the programs and services that it provides, their intended purpose, and factors that could affect their provision in the future.

¹ *The intent of this practice is for the City to have up-to-date information with which to evaluate community conditions and major issues that are integral to the development and achievement of goals. In evaluating community condition, the City may want to consider local, regional, national, and global factors affecting the community (i.e. economic and financial factors, demographics, physical or environmental factors, changes in technology, etc.).*

- Identify the changes in community conditions or other factors that may result in a program or service no longer addressing the needs it was intended to serve. Also, identify any changes in the operating environment that may affect the cost or effectiveness of service delivery in the future.
 - The review will involve each department's assessment of the programs'
 - purposes, beneficiaries and needs served, their success in achieving goals, and issues, challenges, and opportunities affecting their future provision.
 - The inventory of programs and services will identify the organization responsible for service delivery if it is not the City itself. An evaluation of factors affecting service delivery will also be undertaken, such as funding issues; changes in technology; economic, demographic, or other factors that may affect demand; and legal or regulatory changes. These reviews will typically utilize a variety of information sources.
 - Stakeholder involvement in these reviews is encouraged, such as through budget study workshops.
- B. Assess Capital Assets, and Identify Issues, Opportunities, and Challenges
- The City will identify and conduct an assessment of its capital assets, including the condition of the assets and factors that could affect the need for or ability to maintain the assets in the future. The capital assets of the City and their condition are critical to the quality of services provided, and hence are important in determining whether the needs and priorities of stakeholders can be met.
 - The City shall establish a process for inventorying its capital assets and assessing the need for and the condition of these assets. (See Capital Asset Management Policy)
 - The City will assess and evaluate issues, challenges, and opportunities affecting the provision of capital assets in the future, such as community needs and priorities; the impact of deferred maintenance; funding issues; changes in technology; economic, demographic, or other factors that may affect demand; and legal or regulatory changes. This review may be undertaken in conjunction with an evaluation of the program or service utilizing the particular assets.
 - The assessment of capital asset condition must consider the impact of any deferred maintenance and needed improvements. Identification or development of measurement standards for the condition of capital assets (including what is regarded as acceptable) are a valuable output of this practice.

- C. Assess City Management Systems, and Identify Issues, Opportunities, and Challenges
- The City will identify and analyze its organization and management systems, including system strengths and weaknesses and factors that could affect these systems in the future. The support systems established to manage the City are integral to the achievement of goals.
 - The City will inventory management systems by department and routinely identify, analyze, and address issues related to the City's organization and management systems and the environment in which these systems operate.
 - Each department will include an examination of strengths and weaknesses of the organizational structure, interdepartmental communication and cooperation, communication of goals and directives, motivation of staff, conflict management, and provision of other internal needs and support systems.
 - The review will also include an assessment of management policies, procedures, and systems that support achievement of goals.

iii. Develop and Disseminate Broad Goals

A. Identify Broad Goals

- The City is to identify broad goals based on its assessment of the community it serves and its operating environment. Broad goals define the priorities and preferred future state of the community or area served. They provide a basis for making resource allocation decisions during the budget process and serve as a focal point for assessing and coordinating various long-range or strategic plans.
- Goals are to be expressed in written form and should reflect stakeholder concerns, needs, and priorities as well as factors affecting the community and the City.
- They must be sufficiently specific to help define the services to be emphasized and make difficult resource allocation decisions in the budget process.
- Define priorities among goals to improve their usefulness in allocating resources.

B. Disseminate Goals and Review with Stakeholders

- The City will disseminate broad goals and review them with stakeholders. Disseminating and reviewing goals helps foster participation, awareness, consensus, pride, and a sense of direction.
- Dissemination may occur by conducting public forums and by publishing goals in key public documents, such as strategic and other planning documents and budget documents. Electronic media may also be used including the City website.

Goal # 2 - Develop Approaches to Achieve Goals

i. Adopt and Review Financial Policies

A. Develop Policy on Stabilization Funds

- The City developed policies to guide the creation, maintenance, and use of resources for financial stabilization purposes. (See Fund Balance Policy²).
- The policy establishes how and when the City builds up stabilization funds and will identify the purposes for which they may be used.

B. Develop Policy on Fees and Charges³

- The City has established a master fee schedule that identifies the manner in which fees and charges are set and the extent to which they cover the cost of the service provided.
- The fee schedules are to be evaluated annually in the budget process to review all fees and charges, the level of cost recovery for services and the reason for any subsidy, and the frequency with which cost-of-services studies will be undertaken.
- Policies on fees and charges are publicly available and summarized in materials used in budget preparation.

C. Develop Policy on Debt Issuance and Management

- The City has established a Debt Management Policy to guide the issuance and management of debt. Issuing debt commits the City's revenues several years into the future and may limit the City's flexibility to respond to changing service priorities, revenue inflows, or cost structures. Adherence to a debt policy helps ensure that debt is issued and managed prudently in order to maintain a sound fiscal position and protect credit quality. compliance.

² *The Fund Balance Policy is reviewed annually to assess the alignment with set goals established in the budget process. The City should evaluate reserves set in the fund balance policy. These funds may be used at the City's discretion to address temporary cash flow shortages, emergencies, unanticipated economic downturns, and one-time opportunities.*

³ *Costs of service include direct and indirect costs such as operating and maintenance costs, overhead, and charges for use of capital. The City may choose not to recover all costs, but it must identify such costs. Reasons for not recovering full costs will be identified and explained. State and local law may govern the establishment of fees and charges.*

- Debt policies are available to the public and other stakeholders. Because these policies are essential to budget decision making, particularly capital budgets, they will be reviewed by decision makers during the annual budget process and as an appendix in the budget document. Debt Policy will be reviewed for every debt issuance for The City Council has a debt policy and compiles it with other financial policies.

D. Evaluate the Use of Unpredictable Revenues

- One-time or short-term revenues will be identified clearly in the budget process. Unpredictable revenue sources cannot be relied on as to the level of revenue they will generate.
- For each major unpredictable revenue source, the City identifies those aspects of the revenue source that make the revenue unpredictable. Such as, grant supported operating costs.
- One-time revenues will never cover the costs of continuing operating budgets. One-time revenues will only cover one-time costs such as matching requirements, one-time purchases, one-time payments to unfunded liabilities, etc.

E. Develop Policy on Balancing the Operating Budget

- The City defines its Balanced Operating Budget as uses of resources for operating purposes does not exceed available resources over the budget period, July 1 to June 30th.
- The City is committed to a balanced budget under normal circumstances and will provide disclosures when a deviation from a balanced operating budget is planned or when it occurs. A balanced budget is a basic budgetary constraint intended to ensure that the City does not spend beyond its means.
- Operating resources (revenues) includes all taxes, licenses and permits, fines and forfeitures, use of money and property, charges for services, interdepartmental charges, miscellaneous revenues and intergovernmental revenues in the General Fund, Special Revenue Funds, Capital Projects, Debt Service Funds, and Internal Service Funds.
- Operating uses (expenditures) are personnel service costs, material and service costs, capital purchases, and interdepartmental allocations.

ii. Develop Programs, Services, Operating, and Capital Policies and Plans

A. Prepare Policies and Plans to Guide the Design of Programs and Services

- Service and programs directly relate to strategies identified by the City to achieve set goals.

- Each department of the City, such as City Council, City Manager, City Clerk, Police, etc. identify the programs and services along with groups or populations to be serviced, service delivery issues, specific programs listed with standards of performance (including level of service standards or other measures to gauge success), expected costs, time frames for achievement of goals, issues pertaining to organization structure, and priorities for service provision.
 - Each department identifies their goals and achievements by department which should correlate to overall goals of the City.
 - Each department identifies the resources (revenues) used to obtain the goals.
- B. Prepare Policies and Plans for Capital Asset Acquisition, Maintenance, Replacement, and Retirement
- The City will annually evaluate the need to budget for acquisition, maintenance, replacement, and retirement of capital assets to help ensure that needed capital assets or improvements receive appropriate consideration in the budget process and that older capital assets are considered for retirement or replacement. This is necessary to plan for large expenditures and to minimize deferred maintenance.
 - Annual budget evaluation may address inventorying capital assets and evaluating their condition, criteria for acceptable condition, criteria for continued maintenance versus replacement or retirement of an existing asset, and identification of funding for adequate maintenance and scheduled replacement of capital assets.
 - Any assets identified as coming due for replacement will be addressed in multi-year budgets to address replacement and renewal schedules and must recognize the linkage of capital expenditures with the annual operating budget.
 - Plans for addressing deferred maintenance may also be an output of this practice. Once adopted, which may be included in the Capital Improvement Program (CIP) Budget, the plan will be made publicly available, particularly as set forth in budget, management, and planning documents.
- C. Develop Options for Meeting Capital Needs and Evaluating Acquisition Alternatives⁴
- The City develops Capital Improvement Program Budgets to address

⁴ City is to conduct quarterly reviews of existing capital projects in relation to goal attainment and to maintain, renovate, and replace, City facilities. Various considerations to be part of evaluation (i.e. costs, impacts on service, funding levels, use of non-General Funds, stakeholder input, etc.).

- capital needs that are consistent with financial, programmatic, and capital policies and to evaluate alternatives for acquiring the use of capital assets. Capital project planning is necessary to give adequate consideration to longer-range needs and goals, evaluate funding requirements and options, and achieve consensus on the physical development of the community.
- Annually in the budget process the City evaluates alternative mechanisms to help ensure that the best approach for providing use of a capital asset or facility is chosen based on the policies and goals of the City.
- The City uses the CIP Budget to identify capital projects that are needed to achieve goals and a general time frame in which these assets will be needed.

D. Develop Performance Measures

- The City will annually, during the budget process, review and develop and utilize performance measures for functions, programs, and/or activities. Performance measures are used for assessing how efficiently and effectively functions, programs, and activities are provided and for determining whether program goals are being met.
- Performance measures may be linked to specific program goals and objectives.
- The measures are to be valid, reliable, and verifiable.
- Whenever feasible, they should be expressed in quantifiable terms.
- Measures will be reported in periodic reviews of functions and programs, staff reports, and should be integral to resource allocation decisions.
- They also are to be reported in the budget document and may be reported in separate management reports or reports to residents.
- Different aggregations of performance measures may be appropriate for different audiences.

iii. Develop Management Strategies

A. Develop Strategies to Facilitate Attainment of Program and Financial Goals

- The City has an organizational structure and management strategies that facilitate attainment of program and financial goals. Goals are more likely to be achieved if organizational and management strategies are developed to support and encourage organizational and individual performance directed toward goal attainment.
- The City has developed a means to review, improve, and implement strategies that encourage the City and its employees to work toward achievement of goals.
- These strategies include both positive incentives and penalties.

- They also include support systems such as technology support, education, and training.

B. Develop Mechanisms for Budgetary Compliance

- Finance provides monthly budget to actual reports to each department head and City Manager to ensure proper review for compliance with the adopted budget. Appropriate management processes and systems allow the City to detect and correct significant deviation if it occurs.
- On a quarterly basis Finance provides budget to actual reports to department heads and City Council.
- These reports provide measures of departments' budget.
- Budgetary compliance is encouraged through use of data collection and reporting systems that control disbursements of funds and that facilitate the evaluation of revenue and expenditure trends and financial projections.
- City Manager will address any deviation of the budget to actual report (i.e. budget amendments).
- The City has instituted procedures to review the budget quarterly and decide on actions to bring the budget into balance, if necessary.

C. Develop the Type, Presentation, and Time Period of the Budget

- The City will annually present the budget, which will cover the fiscal year July 1st through June 30th. The type of budget, the time period covered, and the manner of presenting materials in the budget documents can have a significant practical impact on the City's approach to planning, control, and overall management of its programs, services, and finances, and on the quality of information provided to stakeholders.
- The output of the budget will provide fund level and department level program information for the full fiscal year. The adopted budget will be provided to all stakeholders on the City website.
- A formal review will be undertaken periodically to ensure that the budget type, time period, and approach to presenting the budget continue to meet the needs and priorities of the City. Such a review will be broadly focused, and not directed simply at the format of individual pages.

Goal# 3-Develop a Budget Consistent with Approaches to Achieve Goals

i. Develop a Process for Preparing and Adopting a Budget

A. Develop a Budget Calendar

- The City publishes a comprehensive budget calendar that specifies when budget tasks are to be completed and that identifies timelines for those tasks. This includes budget workshops available to the public. Stakeholders need to be aware of when key budget tasks, events, and decisions will occur so they have an opportunity to plan and to participate in the process. The preparation of a calendar helps ensure that all aspects of the budget process have been considered and that adequate time has been provided.
- Multiple calendars can be produced, each with different levels of detail and emphasis to meet the needs of the different types of stakeholders. (i.e. Internal Calendar and Public Calendar).
- Calendars list the dates of key events and deadlines.
- At least one calendar describes the overall budget and planning process and identify roles, responsibilities, and assignments.
- To ensure the greatest impact, calendars will identify when and how stakeholders can participate in the process.

B. Develop Budget Guidelines and Instructions

- The City will develop annual general policy guidelines and budget preparation instructions for each budget cycle and accompany the internal budget calendar. Budget guidelines and instructions help ensure that the budget is prepared in a manner consistent with government policies and the desires of management and the City Council. Instructions are necessary so that all participants know what is expected, thereby minimizing misunderstanding and extra work.
- Budget guidelines are specific to the particular budget under development and will incorporate relevant aspects of the City's financial policies.
- Each department is required to provide the Projected Actuals for revenues and expenditures of the current year for their respective department.
- Each department is required to provide Proposed Revenues and Appropriations for the upcoming fiscal year for their respective department.
- Guidelines and instructions may set forth financial constraints and key assumptions that will be used to guide development of the budget, as well as policy direction.
- Instructions often include sample forms to be completed by the operating departments. Guidelines and instructions are prepared in a

written format but may also be presented in an electronic format or through training and/or an oral presentation.

C. Develop Mechanisms for Coordinating Budget Preparation and Review

- The City has developed mechanisms and assigned responsibilities to provide for overall coordination of the preparation and review of the budget. The complete budget process involves many levels, departments, and individuals in the City, as well as a number of distinct processes and disparate groups of stakeholders. Coordination is needed to ensure that processes move forward as planned, to prevent confusion and misinformation, and to ensure appropriate stakeholders are involved.
- The Finance Department is the single point of coordination for all departments.
- The Finance Department's coordination process will involve a number of tasks: developing a calendar, identifying responsibilities for completing various tasks, ensuring that various parts of the budget process are properly integrated, keeping the process on schedule, producing reports, identifying issues and problems, and ensuring that other requirements are met and quality standards are maintained.
- The Finance Director has ultimate responsibility for coordinating the budget process and will respond to stakeholder issues and concerns that arise in the context of the budget process with direction from the City Manager and City Council.

D. Develop Procedures to Facilitate Budget Review, Discussion, Modification, and Adoption

- The City has a process to facilitate the review, discussion, modification, and adoption of a proposed budget. Appropriate procedures are needed to resolve conflicts, to promote acceptance of the proposed budget by stakeholders, and to assist in timely adoption of the budget.
- This process allows stakeholders to be informed of the budget proposal and to allow the legislative body to achieve consensus and adopt a budget.
- Some examples include: small group meetings, hearings, workshops, independent analysis, specific decision-making techniques and procedures, conflict resolution processes, and methods for presenting portions of the budget.

E. Identify Opportunities for Stakeholder Input

- The City provides opportunities in the budget process for obtaining stakeholder input.⁵ By definition, stakeholders are affected by the City's resource allocation plans and service and program decisions. Stakeholders should have clearly defined opportunities to provide input. This helps ensure that stakeholder priorities are identified and enhances stakeholder support for the approved budget.
- Stakeholder input can be obtained in a number of ways, including public hearings, advisory commissions, informal conversations, roundtable briefings, televised and live online broadcast, opinion surveys, neighborhood meetings, office hours, letter writing, telephone calls, and e-mail.
- The budget calendar should identify specific opportunities for resident input where City officials are available to explain issues and choices and to receive comments.

ii. Make Choices Necessary to Adopt a Budget

A. Prepare and Present a Recommended Budget

- The City will prepare and present a recommended comprehensive program and financial plan (the "budget") for review by stakeholders and consideration for adoption by the City Council. A complete plan is necessary to allow stakeholders to be informed on how well all the different aspects of the plan fit together and whether there is an appropriate balance of resources and assigned uses.
- The proposed budget will consist of a set of recommended actions regarding programs and services to be funded, including service level, quality, and goals to be achieved.
- It will also identify funding requirements and sources of funds and provide the supplemental information necessary to review the plans.
- The budget is to be consistent with policies and goals set by the City.
- The recommended budget must also comply with any statutory requirements.

⁵ *The budget process should include opportunities for all stakeholders to participate. A general-purpose public hearing shortly before final decisions are made on the budget is not adequate as the sole means of soliciting stakeholder input, especially on major issues. The process developed for obtaining stakeholder input should ensure that information is gathered in a timely and complete manner to be useful in budget decision making, such as City workshops.*

B. Present the Budget in a Clear, Easy-to-use Format

- Budget documents and related materials made available to stakeholders is to be presented in a clear and readily comprehensible format. The budget is the guide that determines the direction of the City. It is arguably the single most important document routinely prepared by the City. To be usable, it not only must contain the appropriate information, but must also be prepared in a manner that is clear and comprehensible.
- Some items in a budget document that will assist the reader include: a table of contents, summaries, a consistent format, high-level summary information that describes overall funding sources and the organization as a whole, a description of the overall planning and budgeting process and the interrelationships of those various processes, supplementary information about the City and the area for which it has responsibility, charts and graphs to better illustrate important points, succinct and clearly-written summaries, uncluttered pages, and detailed information placed in appropriate locations so that it does not overwhelm the reader.
- Similar requirements apply to the non-written means (e.g., audio, video) of presenting budget material to stakeholders at various times during the budget process.

C. Adopt the Budget

- The City should adopt a budget that meets all statutory requirements prior to the beginning of the fiscal year.⁶ The timely adoption of a budget permits the City to proceed with implementing programs and services that further the achievement of goals.
- The adopted budget will clearly present the financial, operating, and capital plan.
- It includes all operations and funds, although not necessarily at the same level of detail.
- Non-appropriated funds, revolving funds, and any other planned revenues and expenditures are also included.
- Whenever feasible, the adopted budget should include (though not necessarily in a single document) all statutorily required materials such as the appropriation ordinance.
- Legally required documents that otherwise do not contribute to an understanding of the budget may be included as an appendix.

⁶ *If there are delays in adopting the budget, actions are to be taken to minimize uncertainty when the new budget period starts, as appropriate. A continuing appropriation may be legally required.*

Goal# 4 - Evaluate Performance and Make Adjustments

i. Monitor, Measure, and Evaluate Performance

A. Monitor, Measure, and Evaluate Program Performance

- The City quarterly evaluate the performance of the programs and services it provides. The City functions, programs, and activities will also be periodically reviewed to determine whether they are accomplishing intended program goals and making efficient use of resources.
- Performance measures, including efficiency and effectiveness measures, are to be presented in basic budget materials, including the operating budget document, and be available to stakeholders.
- Performance measures should be reported using actual data, where possible.
- At least some of these measures should document progress toward achievement of previously developed goals and objectives.
- More formal reviews and documentation of those reviews should be carried out as part of the overall planning, decision-making, and budget process.

B. Monitor, Measure, and Evaluate Budgetary Performance

- At a minimum, the City will, on a quarterly basis, evaluate its financial performance relative to the adopted budget. Regular monitoring of budgetary performance provides an early warning of potential problems and gives decision makers time to consider actions that may be needed if major deviations in budget-to-actual results become evident. It is also an essential input in demonstrating accountability.
- Budget-to-actual or budget-to-projected actual comparisons of revenues, expenditures, cash flow, and fund balance will be reviewed quarterly during the budget period. Staffing levels are also monitored.
- Comparisons for at least the current year will be included in the budget document and be generally available to stakeholders during discussions related to budget preparation and adoption.
- Expenditures shall be limited to the amount budgeted. Expenditures shall be continuously monitored and projected to the end of the year. If the projected expenditures exceed the budget, appropriate remedies shall be implemented immediately.

C. Monitor, Measure, and Evaluate Financial Conditions

- The City will monitor and evaluate its financial condition at least quarterly. The financial health of the City is critical to its ability to meet

- the needs of stakeholders. Financial condition should be evaluated to identify potential problems and any changes that may be needed to improve performance over both the short and long terms.
- Financial indicator measures often are developed to monitor financial condition and achievement of explicitly set financial goals.
- Indicators to monitor factors that affect financial performance are also reported.
- A report on financial condition will be periodically prepared and updated.
- The report may be a separate document or incorporated into other relevant documents, including the budget document.

D. Monitor, Measure, and Evaluate External Factors

- The City is to constantly monitor and evaluate external factors that may affect budget and financial performance and achievement of goals at least quarterly. Factors outside the City's control, such as the national or regional economy, demographic changes, statutory changes, legislation, mandates, and weather, may affect achievement of stated goals. Monitoring these factors helps the City to evaluate and respond to the effect of these external influences on goals, programs, and financial plans.
- External factors that are likely to be important in achieving goals are to be identified and monitored regularly.
- The results of this analysis will be factored into the assessment of program and financial performance and considered in adjusting these programs.
- Trends and significant issues may be described in reports to stakeholders discussing program, budget, and financial performance.
- The assessment of external factors is to be reported, at least in summary form, and available to stakeholders.

E. Monitor, Measure, and Evaluate Capital Improvement Program Implementation

- The City will monitor, measure, and evaluate capital improvement program implementation at least quarterly. Monitoring the status of capital projects helps to ensure that projects progress as planned, problems (such as delays in key milestones and cost overruns) are identified early enough to take corrective action, funds are available when needed, and legal requirements are met.
- Reports on capital project implementation will be prepared for decision makers and other stakeholders.
- Summary information is to be considered for projects that are progressing as planned.
- Project milestones, such as dates for completion of such tasks as planning, land acquisition, engineering and design, and construction,

should be identified and progress in meeting these milestones should be reported at least annually, and as available.

- The City will monitor quality compliance and financial performance.

ii. Make Adjustments as Needed

A. Adjust the Budget

- The budget may be adjusted during the budget period should unforeseen events require changes to the original budget plan. The budget is a plan based on a set of assumptions that may not always match actual experiences during the execution phase. The City should watch for significant deviations from expectations and make timely adjustments so that the plan is consistent with revised expectations.
- The City has procedures in place to determine when deviations from the budget plan merit adjustments to the budget.
- Budget adjustments, whether to programs or to revenues and expenditures, are to be made as appropriate in a timely manner.⁷
- Any changes to the budget are to be reported.
- The timing and way this is done depends on the stakeholder group and the level of materiality of the changes.

B. Adjust Policies, Plans, Programs, and Management Strategies

- The City may adjust its policies, plans, programs, and management strategies during the budget period, as appropriate. Changing conditions or programs and services that are not producing the desired results or efficiently utilizing resources may require adjustments for the City to continue to meet the needs of stakeholders and to meet its own goals.
- The City's management team will evaluate their monthly budget to actual report for review, decision making, and implementation of changes to policies, plans, programs, and management strategies during the budget period.
- Adjustments are based on findings obtained from monitoring and assessing program and financial results, stakeholder input, and external circumstances.
- Regular briefings to management and elected officials on the contents of the reports permit timely adjustments as needed to the plan or program activities.

⁷ *Budget adjustments may be administrative or legislative depending on the adjustment needed and on statutory requirements such as the legal level of control of the budget appropriations. City Manager may make adjustment within the fund across departments as long as the overall appropriation is not changed.*

C. Adjust Broad Goals, if Appropriate

- The City will modify or change its broad goals if conditions change sufficiently that these goals are no longer appropriate. Goals may need to be adjusted in response to new information about program results, stakeholder needs, and external circumstances in order to be more relevant for the community or more practically attainable.
- The City department heads meet to evaluate performance or changes in the annual budget plan to ensure that goals are reviewed during the budget period and adjusted when appropriate.
- Adjustments are based, in part, on findings obtained from monitoring and assessing program and financial results, stakeholder input, and external circumstances.
- Opportunities and challenges facing the City are also to be considered.



City of West Covina

Debt Management Policy

Adopted – May 5, 2020

CITY OF WEST COVINA DEBT MANAGEMENT POLICY

Section 1 – Introduction

The purpose of this Debt Management Policy (Policy) is to establish guidelines for the issuance and management of debt for the City of West Covina and all affiliated city entities (collectively, the “City”). While the City prefers to finance projects on a pay-as-you-go basis, in the event debt is necessary, this Policy confirms the commitment of the Council, management, staff, advisors and other decision makers to adhere to sound financial management practices, including full and timely repayment of borrowing, and achieving the lowest possible cost of capital within prudent risk parameters.

Debt Issuance Priorities:

1. Achieve the lowest cost of capital while maintaining compliance with state and federal laws and regulations
2. Maintain a prudent level of financial risk and maintain the City’s sound financial position
3. Preserve future financial flexibility
4. Ensure that all debt is structured to maximize the benefit to both current and future taxpayers, ratepayers, and constituents of the City
5. Maintain full and complete financial disclosure and reporting
6. Obtain and maintain the highest practical credit ratings consistent with maximizing the benefit to both current and future taxpayers, ratepayers and constituents of the City.
7. Maintain good relations with all investors in City debt
8. Ensure that the City’s debt is consistent with the City’s planning goals and objectives and capital improvement program or budget, as applicable

This policy shall govern the issuance and management of all debt and lease financing funded from the capital markets (including private placement and bank loans), including the selection and management of related financial services and products and investment of bond and lease proceeds. While adherence to this policy is required in applicable circumstances, it is recognized that changes in the capital markets, agency programs and other unforeseen circumstances may from time to time produce situations that are not covered by this policy and will require modifications or exceptions to achieve policy goals. In these cases, management flexibility is appropriate, provided specific authorization from the City Manager and City Council is obtained.

Section 2 – Responsibilities

The City’s debt program for all City funds shall be operated in conformance with applicable federal, state, and other legal requirements, including the West Covina Municipal Code.

Responsibility for managing the coordinating of all activities related to the structure, issuance and administration of all long and short-term debt obligations shall rest with the Finance Director.

No debt obligations shall be presented to the City Council for their authorization without the joint assessment and recommendation of the City Manager, Finance Director and the City Attorney. Departments planning debt-financed capital programs or equipment acquisitions shall work closely with the City Manager, Finance Director

and City Attorney to provide information and otherwise facilitate the issuance and on-going administration of debt.

The Finance Director shall have the authority to periodically select service providers as necessary to meet legal requirements and minimize debt costs. Such services may include financial advisory, underwriting, trustee, verification agent, escrow agent, arbitrage consulting, special tax consulting, bond and disclosure counsel, and other consultants as needed. To achieve an appropriate balance between service and cost, the Finance Director is authorized to select such service providers through sole source selection or a competitive process using a Request for Proposals.

The Finance Director shall be responsible for maintaining good communications with rating agencies, investors and other debt related service providers about the City's financial condition and will follow a policy of full disclosure.

The Finance Director shall conduct an annual review of the Policy and bring forward to the City Council any amendments deemed necessary and appropriate.

Section 3 – Debt Considerations

The City will evaluate the need for debt financing a project compared to a pay-as-you-go financing methodology. The City prefers to fund projects on a pay-as-you-go basis.

A. Factors favoring a pay-as-you-go methodology include:

- a. Current projected revenues and fund balances available are sufficient to fund the project
- b. Long term total costs are lower due to the avoidance of interest expense
- c. Existing debt capacity is insufficient to absorb the additional debt without adverse impact to credit ratings
- d. Market conditions are unfavorable or present difficulties in marketing

B. Factors favoring debt financing include:

- a. Current and projected revenues available for debt service are sufficient and reliable so that financing can be marketed with investment grade credit ratings
- b. Market conditions present favorable interest rates and demand for the City financings
- c. A project is mandated by state or federal requirements, and current resources are insufficient or unavailable to fully fund the project
- d. The project is immediately required to meet or relieve capacity needs or emergency conditions and current resources are insufficient or unavailable
- e. The savings from the project are sufficient to pay for the debt service costs

The City will review debt limits in conjunction with any proposed financing. It is the City's goal to limit debt service costs in the General Fund to no more than twenty-five (25%) percent of revenues, including transfers. Payments on bonds that are tied to a specified revenue stream other than General Fund resources (e.g. enterprise revenue bonds, tax allocation bonds, and land secured bonds) are not subject to the twenty-five (25%) percent limit. The debt limit will exclude pension obligation bonds and other refunding bonds. Each proposed

financing will be individually assessed by the Finance Director and subject to the approval policies contained herein.

Section 4 – Debt Term

The City Council recognizes that any new debt obligation will have an impact on the long-term affordability of all outstanding debt and any future planned debt, as well as budgetary impacts associated with the maintenance and operating costs of debt financed facilities.

- A. Term of Debt – Debt will be structured for the shortest period possible, consistent with a fair allocation of costs to current and future beneficiaries or users. The weighted average maturity of the debt (or the portion of the debt allocated to the project) shall not exceed the useful life of the project.
- B. Debt Repayment – Typically, the City desires level debt service payments over the term of the debt. However, the cost of capital, financial risk, current economic conditions, future financial flexibility, credit ratings and available cash flow will be evaluated to determine the most appropriate method of debt amortizations for each debt issue. Notwithstanding the above, back loading of debt service will be evaluated as the circumstances dictate. Back loading occurs when debt service payments are lower in the initial years of a debt term and higher toward the later years of a debt term.

Section 5 – Debt Issuance

The City has the capacity to issue long and short-term debt and to refund any outstanding debt. The following section details the purposes of debt issuance and the method of determining the type of sale for such debt.

- A. Long-term Debt – Long-term debt financings are appropriate when the project to be financed is necessary to provide basic services and long-term debt may be used to finance the acquisition or improvement of land, infrastructure, facilities or equipment for which it is appropriate to spread the costs of such over more than one budget year. Long-term debt may be used to fund capitalized interest, cost of issuance, required reserves and any other financing related costs that may be legally capitalized. Long-term debt shall not be used to fund City operating costs.
- B. Short-term Debt – Short-term debt will be considered as an interim source of funding in anticipation of long-term debt. Short-term debt may be issued for any purpose for which long-term debt may be issued, including capitalized interest and financing related costs. Short-term debt is also appropriate to address legitimate short-term cash flow requirements during a given fiscal year to fund the operating costs of the City to provide necessary public services. The City will not engage in short-term borrowing solely for the purpose of generating investment income.
- C. Financings on Behalf of Other Entities - The City may also find it beneficial to issue debt on behalf of other governmental agencies or private third parties to benefit the public purposes of the City. In such cases, the City shall take reasonable steps to confirm the financial feasibility of the project to be financed and the financial solvency of any borrower and that the issuance of such debt is consistent with the policies set forth herein.
- D. Refunding – Refunding opportunities will be identified by periodic reviews of outstanding debt obligations. Refunding will be considered when there is a net economic benefit from the refunding of a least three (3) percent on a net present value basis. Non-economic refunding may be undertaken to achieve City objectives relating to changes in covenants, call provisions, operational flexibility, tax status, issuer, or other non-economic factors related to the debt.

- E. Method of Sale – The City shall have the flexibility to determine which method of sale is appropriate for each debt issuance in light of market interest rates and City objectives. Determination of the appropriate method of sale will rest collectively with the City Manager, Finance Director, and City Attorney. Potential methods of sale include:
 - a. A competitive bidding process through which interested underwriters submit proposals to purchase an issue of bonds and the award is based on, among other factors, the lowest offered true interest cost.
 - b. A negotiated sale process through which a selected underwriter, or team of underwriters, negotiate the terms of an issue and sell bonds in the municipal market. Negotiated sales are often used where there are unusual conditions or unique considerations related to the bond sale. A negotiated sale is subject to approval by the City to ensure that interest costs are in accordance with comparable market interest rates.
 - c. A private (or direct) placement sale typically occurs when the financing can or must be structured for a single or limited number of purchasers or where the terms of the private placement are more beneficial to the City than either a negotiated or competitive sale.
- F. Pooled Financing – The City may also consider use of pooled financing as a method of accessing the capital markets. Use of pooled financing will be evaluated collectively by the City Manager, Finance Director, and City Attorney.

Section 6 - Debt Structure

- A. Credit Ratings – The City seeks to obtain and maintain the highest possible credit rating when issuing debt. The City will seek credit ratings from at least one major credit rating agency on all debt, as appropriate. Ratings from multiple rating agencies may be sought for a single debt issue based upon the market conditions at the time of the issuance.
- B. Fixed Rate and Variable Rate Debt – The City prefers to issue fixed rate debt. Variable rate debt may be used, if market conditions warrant at the time of issuance. It is acknowledged that variable rate debt passes an unknown obligation onto future budget cycles.
- C. Debt-related Derivatives – Derivative products may have application with regard to certain City borrowing programs. The City acknowledges the increased complexity associated with use of derivatives and the City Manager, Finance Director and the City Attorney will evaluate the use of derivative products on a case-by-case basis.
- D. Call Provisions – The timing for when bonds are callable varies and is determined at the time of pricing such bonds. The City’s preferred structure is to negotiate for optional redemption at par in order to maintain flexibility in the future, but a final decision will be made on a case by case basis after evaluation of the marketability of the City’s bonds.
- E. Credit Enhancements – The City may use credit enhancements (letters of credit, bond insurance, surety bonds, etc.) when such credit enhancements prove to be cost effective. The City will consider the use of credit enhancements on a case-by-case basis.
- F. Reserve Funds – A debt service reserve fund provides an added measure of security to bond holders and may improve the credit rating and thus lower the costs of borrowing. Reserve funds may be necessary for specific transactions, or the City may choose to create one if it is determined to be cost effective. When cost beneficial, the City may consider the use of surety bonds, lines of credit, or similar instruments to satisfy the reserve requirements.

Section 7 – Private Activity Use Limitations on Tax Exempt Debt

IRS Tax Code Section 141 sets forth private activity tests for the purpose of limiting the volume of tax-exempt bonds that finance activities of persons other than state and local governmental entities. These tests serve to identify arrangements that actually or reasonably expect to transfer the benefits of tax-exempt financing to non-governmental persons. The law includes tests of private use, security and payment as well as private loan financing tests. The law also provides for various safe harbors and nuances to the application of these limits. The City will manage a process to ensure private use compliance and will consult with bond counsel to obtain federal tax advice regarding whether anticipated project use will be consistent with the restrictions on private business use of the bond financed property and, if not, whether any “remedial action” permitted under §141 of the code may be taken as means of enabling that use arrangement to be put into effect without adversely affecting the tax-exempt status of the bonds.

With respect to tax-exempt bonds, the City pledges in each bond issuance that it will monitor and control the receipt, investment, expenditure, and use of all bond proceeds and will take or omit to take any actions as necessary to cause interest on tax-exempt bonds to remain excludable from the gross income of bond holders. City staff will ensure appropriate lease and building use policies to maintain compliance with this pledge.

Section 8 – Interfund Borrowings

The City may borrow internally from other funds with temporary cash surpluses to meet short term cash needs in lieu of issuing debt. Interfund borrowing extending for more than one year will be brought to Council for approval.

Section 9 – Debt Administration

The Finance Director shall be responsible for administering the City’s debt management program. To that end, this position shall:

- A. Ensure compliance with all disclosure and reporting requirements outlined in the City’s Disclosure Policy
- B. Periodically review outstanding debt for refunding opportunities
- C. Maintain positive working relationships with rating agencies and other financial professionals
- D. Review and recommend appropriate structures for all new debt issuances
- E. Ensure compliance with the Investment Policy and bond documents regarding investing bond proceeds

Section 10 – Arbitrage Compliance

Arbitrage is defined as the profit earned when tax-exempt bond proceeds are invested in higher yielding securities than the interest rates of the bonds issued. To ensure compliance with federal arbitrage laws, the City will monitor ongoing activities, including remittance of any required arbitrage rebate. If necessary, the City will utilize a consultant for arbitrage rebate calculations and preparation of the required Internal Revenue Service forms. Arbitrage rebate calculations on outstanding bond issues will be performed periodically, but never longer than the 5th year after a bond issuance.

Section 11 – Disclosure Policy

The Finance Director will be the disclosure coordinator for the City and will have the responsibility of complying with the City’s Disclosure Policy document, as adopted by City Council.



City of West Covina

Disclosure Policy

Adopted – May 5, 2020

CITY OF WEST COVINA

DISCLOSURE POLICIES

Section 1 - General

These debt-related disclosure policies and procedures (the “**Disclosure Policies**”) are intended to ensure that the City of West Covina and all affiliated city entities (collectively, the “City”) remain in compliance with all applicable federal and state securities laws.

Section 2 – Disclosure Coordinator

The Finance Director of the City shall be the disclosure coordinator of the City (the “**Disclosure Coordinator**”).

Section 3 – Review and Approval of Official Statements

The Disclosure Coordinator of the City shall review any Official Statement prepared in connection with any debt issuance by the City in order to ensure there are no misstatements or omissions of material information in any sections that contain descriptions of information prepared by the City.

In connection with the review of the Official Statement, the Disclosure Coordinator shall consult with third parties, including outside professionals assisting the City, and all members of City staff, to the extent that the Disclosure Coordinator concludes they should be consulted so that the Official Statement will include all “material” information (as defined for purposes of federal securities law).

As part of the review process, the Disclosure Coordinator shall submit all Official Statements to the City Council for approval. The approval of an Official Statement by the City Council shall be placed on the agenda as a new business matter and shall not be approved as a consent item. The City Council shall undertake such review as deemed necessary by the City Council, following consultation with the Disclosure Coordinator, to fulfill the City Council’s responsibilities under applicable federal and state securities laws. In this regard, the Disclosure Coordinator shall consult with the City’s disclosure counsel to the extent the Disclosure Coordinator considers appropriate.

Section 4 – Continuing Disclosure Filings

Under the continuing disclosure undertakings that the City has entered into in connection with its debt offerings, the City is required each year to file annual reports with the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access (“**EMMA**”) system in accordance with such undertakings. Such annual reports are required to include certain updated financial and operating information, and the City’s audited financial statements.

The City is also required under its continuing disclosure undertakings to file notices of certain events with EMMA.

The Disclosure Coordinator is responsible for establishing a system (which may involve the retention of one or more consultants) by which:

- (i) the City will make the annual filings required by its continuing disclosure undertakings on a complete and timely basis, and
- (ii) the City will file notices of events enumerated in Exhibit A on a timely basis.

At their sole discretion, the Disclosure Coordinator may engage a consultant that specializes in continuing disclosure compliance to assist the City in maintaining compliance with all covenanted continuing disclosure requirements.

Section 5 – Annual Reporting to the State of California

At the time of adoption of these Disclosure Policies, there are three primary categories of annual reporting required by the State of California, as outlined below:

1. With the adoption of Senate Bill No. 1029 (which became effective January 1, 2017 and applies to all debt sold on or after January 21, 2017), debt issuers in the State of California are required to file annual debt transparency reports (“ADTRs”) that cover a reporting period of July 1 to June 30. These ADTRs are to include specified information about debt authorized, issued, and outstanding and regarding the use of proceeds from debt during the reporting period. These ADTRs are due by January 31st of each year for any debt outstanding in the prior fiscal year and are to be filed with the California Debt and Investment Advisory Commission (“CDIAC”).
2. Mello-Roos Reporting: All issuers that have sold community facilities district bonds after January 1, 1993 are required to report certain information about the bond issues through by completing a Yearly Fiscal Status Report (“YFSR”) and/or a Draw on the Reserve Fund or Default Report. Issuers are required to file all YFSRs if they have sold bonds on or before June 30th of each year and each year thereafter until the bonds are no longer outstanding. All issuers, regardless of when bonds are sold, are required to report any draw on reserve or default that occurs throughout the calendar year. These reports must be submitted to CDIAC no later than October 30th each year.
3. Marks-Roos Reporting: Any joint powers authority selling bonds on or after January 1, 1996 that uses the proceeds to acquire one or more local obligations is required to report annually on the fiscal status of the Authority Bonds and the local obligations acquired until the final maturity of the bonds. CDIAC has developed the Marks-Roos Yearly Fiscal Status Report for Authority Issue to standardize and facilitate reporting on joint powers authority bonds. Such reports must be submitted to CDIAC no later than October 30th each year.

The Disclosure Coordinator will be responsible for complying with State requirements regarding annual filings all applicable outstanding City debt. At their sole discretion, the Disclosure Coordinator may engage a consultant that specializes in compliance with State reporting requirements to assist the City in maintaining compliance with all covenanted continuing disclosure requirements.

Section 6 – Public Statements Regarding Financial Information

Whenever the City makes statements or releases information relating to its finances to the public that are reasonably expected to reach investors and the trading markets, the City is obligated to ensure that such statements and information are complete, true, and accurate in all material respects.

Section 7 – Training

The Disclosure Coordinator shall ensure that the members of the City staff involved in the initial or continuing disclosure process and the City Council are properly trained to understand and perform their responsibilities.

The Disclosure Coordinator shall arrange for disclosure training conducted by the City's disclosure counsel or other qualified instructor. Such training sessions shall include education on these Disclosure Procedures, the City's disclosure obligations under applicable federal and state securities laws and the disclosure responsibilities and potential liabilities of members of the City's staff and members of the City Council. Such training sessions may be conducted using a recorded presentation.

EXHIBIT A LISTED EVENTS

The Disclosure Coordinator should review this list at least once each week to determine whether any event has occurred that may require a filing with EMMA.

For securities subject to Rule 15c2-12, the following events require notice in a timely manner not in excess of ten (10) business days after the occurrence of the event:

1. principal and interest payment delinquencies;
2. non-payment related defaults, if material;
3. unscheduled draws on debt service reserves reflecting financial difficulties;
4. unscheduled draws on credit enhancements reflecting financial difficulties;
5. substitution of credit or liquidity providers, or their failure to perform;
6. adverse tax opinions, the issuance by the I.R.S. of proposed or final determinations of taxability, Notices of Proposed Issue or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
7. modifications to rights of security holders, if material;
8. bond calls, if material, and tender offers;
9. defeasances;
10. release, substitution, or sale of property securing repayment of the securities, if material
11. rating changes;
12. bankruptcy, insolvency, receivership or similar event of the obligated person;
13. consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. appointment of a successor or additional trustee or the change of name of a trustee, if material.

For continuing disclosure undertakings entered into on or after February 27, 2019, the following events require notice in a timely manner not in excess of ten (10) business days after the occurrence of the event:

15. incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material; and
16. default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.



City of West Covina

Information Technology Backup Policy

Updated – May 5, 2020

City of West Covina
Administrative Policies

SUBJECT: Information Technology Backup Policy

EFFECTIVE DATE: May, 5, 2020

PURPOSE: To establish a policy regarding the backup of data and essential systems to ensure recovery/business continuity in the event of a virus attack, software interruption, system failure or other disaster.

Introduction:

Division of Information Technology (DoIT) uses full and incremental backups of all servers and databases; saving data to onsite and cloud storage service. This allows for data to be stored and then replicated in a timely manner. This policy has been designed and implemented with disaster recovery/business continuity (i.e. the ability to recover recent live data in the event of a partial or total loss of data) as key deliverables and is not designed as a method of archiving material for extended periods of time.

The data backups cover all systems managed by the DoIT. Data held and managed locally in departments is excluded unless departments have entered into specific arrangements with DoIT. All staff are reminded that they are individually responsible for data held locally on their desktop or laptop computer. All critical data must be stored on the network drives provided.

A. Backup Schedule:

1. Upon completion of backups, data is stored to a secure remote site for disaster recovery purposes.
2. A limited number of personnel have access to the backup application.
3. Frequency: Server backup daily. Incremental backup every day and full backup on a weekly basis.

B. Backup Access:

4. Upon completion of backups, data is stored to a secure remote site for disaster recovery purposes.
5. A limited number of personnel have access to the backup application.

C. Backup Policy:

1. The DoIT backup systems have been designed to ensure that routine backup operations require no manual intervention.
2. DoIT ensures regular monitoring of backup operations and the status for backup jobs is checked regularly with a full recovery test yearly and a random partial recovery test quarterly.

D. Restore:

1. Data is available for restore upon request
2. Request for data recovery should be submitted to the DoIT service desk.

Shawn Granger
IT Manager

David Carmany
City Manager

Date



City of West Covina

Pension Funding Policy

Adopted – May 5, 2020

I. PURPOSE

The City's Pension Funding Policy documents the method the City will use to determine its actuarially determined contributions to fund the long-term cost of benefits to the plan participants and annuitants. The policy also:

- Provides guidance in making annual budget decisions;
- Demonstrates prudent financial management practices;
- Create sustainable and affordable budgets for pensions;
- Reassures bond rating agencies; and
- Shows employees and the public how pensions will be funded.

II. BACKGROUND

The City provides defined benefit retirement plan through the California Public Employees' Retirement System (CalPERS). CalPERS is a multiple-employer public employee defined benefit pension plan.

All full-time and certain part-time City employees are eligible to participate in CalPERS. CalPERS provides retirement and disability benefits, annual cost of living adjustments and death benefits to plan members and their beneficiaries. CalPERS acts as a common investment and administrative agent for participating public entities within the State of California. Benefit provisions and all other requirements are established by state statute.

The financial objective of a defined benefit pension plan is to fund the long-term cost of benefits provided to the plan participants. In order to assure that the plan is financially sustainable, the plan should accumulate adequate resources in a systematic and disciplined manner over the active service life of benefitting employees. This funding policy outlines the method the City will utilize to determine its actuarially determined contributions to fund the long-term cost of benefits to the plan participants and annuitants.

Pension Funding: A Guide for Elected Officials, issued by eleven national groups including the U.S. Conference of Mayors, the International City/County Management Association, and the Government Finance Officers Association, established the following five general policy objectives for a pension funding policy:

- **Actuarially Determined Contributions.** A pension funding plan should be based upon an actuarially determined contribution (ADC) that incorporates both the cost of benefits in the current year and the amortization of the plan's unfunded actuarial accrued liability.

- **Funding Discipline.** A commitment to make timely, actuarially determined contributions to the retirement system is needed to ensure that sufficient assets are available for all current and future retirees.
- **Intergenerational equity.** Annual contributions should be reasonably related to the expected and actual cost of each year of service so that the cost of employee benefits is paid by the generation of taxpayers who receives services from those employees.
- **Contributions as a stable percentage of payroll.** Contributions should be managed so that employer costs remain consistent as a percentage of payroll over time.
- **Accountability and transparency.** Clear reporting of pension funding should include an assessment of whether, how, and when the plan sponsor will ensure sufficient assets are available for all current and future retirees.

III. POLICY

- A. **Actuarially Determined Contribution (ADC).** CalPERS actuaries will determine the City's ADC to CalPERS based on annual actuarial valuations. The ADC will include the normal cost for current service and amortization of any under-funded amount. The normal cost will be calculated using the entry age normal cost method using economic and non-economic assumptions approved by the CalPERS Board of Administration.

The City will review the CalPERS annual actuarial valuations to validate the completeness and accuracy of the member census data and the reasonableness of the actuarial assumptions.

- B. **Additional Discretionary Payment (ADP) Contribution.** The City will consider making ADP contributions with one-time General Fund resources, with the objectives of increasing the plan's funded status, by reducing the unfunded actuarially accrued liability, and reducing ongoing pension costs.
- C. **Pension Obligations Bonds.** The City will consider pension obligation bonds if such bonds have expected savings using borrowing costs and CalPERS' discount rate.

The City and its advisors will discuss and consider the risks of any potential pension obligation bonds.

Any pension obligation bonds, or refundings of pension obligation bonds, must be voted upon by the City Council.

- D. Contributions as a Manageable Budget Expense.** The City will always make its required annual contributions to CalPERS. Contributions should be stable and a manageable portion of revenue. The City may:
- Make additional discretionary contributions directly to CalPERS.
 - Consider establishing a pension stabilization trust, subject to approval by the Council.
 - Issue, call, or refund pension obligation bonds.
- E. Transparency and Reporting.** Funding of the City's pension plans should be transparent to vested parties including plan participants, annuitants, the City Council, and residents. In order to achieve this transparency, the following information shall be available:
- Copies of the annual actuarial valuations for the City's CalPERS plans shall be made available to the City Council.
 - The City's Comprehensive Annual Financial Report shall be published on its website. This report includes information on the City's annual contributions to the pension systems and their funded status.
 - The City's annual operating budget shall include the City's contributions to CalPERS.
- F. Review of Funding Policy.** Funding a defined benefit pension plan requires a long-term horizon. As such, the City will review this policy at least every two years.



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

SUBJECT: CONSIDERATION OF RENEWAL OF LANDSCAPE MAINTENANCE DISTRICT NO. 4 — ORDERING OF ENGINEER'S REPORT AND PRELIMINARY APPROVAL OF THE ENGINEER'S REPORT

RECOMMENDATION:

It is recommended that the City Council take the following actions:

1. Adopt the following resolution:

RESOLUTION NO. 2020-27 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 4

2. Following adoption of Resolution No. 2020-27, adopt the following resolution:

RESOLUTION NO. 2020-28 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 4, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

BACKGROUND:

The Landscaping and Lighting Act of 1972 (California Streets and Highways Code section 22500 et seq.) (the "Act") specifies the procedures for renewal of landscape maintenance districts. Landscape Maintenance District No. 4 (LMD4) was established in 1975. This district is located in the southeasterly part of the City. The assessments collected are used to maintain landscaping, irrigation, hardscape (e.g. sidewalks, walls, etc.), and area lighting on 130 acres of public open space within the boundaries of the district. To encourage innovative housing types and neighborhood designs and to preserve the ridgelines in the San Jose Hills, this area was originally developed with relatively narrow street rights-of-way and small lot sizes. The resulting surplus land was converted to landscaped slope areas and park like "green belt" areas containing walkways, landscaping, and lighting.

DISCUSSION:

The initial step of the renewal process is to adopt Resolution No. 2020-27, ordering the Engineer's Report.

This report has been completed and includes plans and specifications for improvements, estimated costs, assessment diagrams, and assessments spread to cover the estimated costs. The report was prepared in accordance with the Act.

The next step in the renewal process is the preliminary approval of the Engineer's Report and adoption of the Resolution of Intention concerning the levy and collection of assessments for LMD4. Staff is recommending setting a public hearing date of June 2, 2020 as required in the Act. At the public hearing, the City Council will consider all written and oral comments regarding the level of assessments, and the maintenance and capital improvement work proposed for LMD4. The renewal process requires that a public notice be posted and published in a locally circulated newspaper, but does not require notices be mailed to each resident. Upon the conclusion of the hearing, the City Council should adopt a resolution confirming the diagram and assessment levy either as proposed or as changed by the City Council.

At this time, staff recommends that the assessment rates be maintained at their current levels for Fiscal Year 2020/2021. The annual assessment rates for LMD4 will be maintained at \$348.02 for a single dwelling unit and \$464 for a duplex unit.

Key point: For various reasons rates have not been increased in over 15 years, which has led to reduced services and increased concerns by residents. A requested rate increase failed in 2009. Staff is suggesting that in the coming year the City conduct a full study of what a proper level of maintenance would cost and explore how to set the assessment rate accordingly. Maintenance districts are supposed to be self-funded and not rely upon a general fund contribution. The study will take several months and if rates are to be increased would require a vote by the affected property owners.

LEGAL REVIEW:

The City Attorney's Office has reviewed and approved the resolutions as to form.

OPTIONS:

The City Council has the following options:

1. Maintain the assessment rates at their current levels. The attached "10-Year Fiscal Projection" shows rates being maintained at their current levels and the reserve levels over the next 10 years. Staff is recommending this option.
2. Reduce the assessment rates; LMD4's reserves will be depleted at a faster pace requiring the City's General Fund to subsidize the district.
3. Increase the assessment rates above the previously approved maximum amounts. LMD4 would need to comply with the mail ballot provision of Proposition 218. In Fiscal Year 2009-2010, a mail ballot election on a proposed increase of the assessment rates was processed and not approved by the property owners.
4. To not renew the district. If the City Council does not wish to continue the district and wishes to fund the district from the General Fund, the resolutions are not necessary.

Prepared by: Michael Ackerman, City Engineer

Fiscal Impact**FISCAL IMPACT:**

The Fiscal Year 2020/2021 Engineer's Report for LMD4 recommends that the assessment rates be maintained at their current levels. The annual assessment rates for LMD4 will be maintained at \$348.02 for a single dwelling unit and \$464 for a duplex unit. The projected income from the recommended rates is \$1,030,452. In addition, \$9,000 is projected to be received from Landscape Maintenance District No. 2 (LMD2) for costs of maintenance in an overlap area between LMD2 and LMD4. The total projected revenue is \$1,033,993, including \$3,541 in interest. With the \$1,770,454 balance from the previous year, the total funds available is \$2,813,447.

The preliminary operating budget for LMD4 for Fiscal Year 2020/2021 is \$1,035,891, which is a an increase of 2% compared to the approved/amended budget for Fiscal Year 2019/2020. The proposed operating budget funds only the regular landscape maintenance. Ongoing improvements such as irrigation system improvements, enhancement to existing landscaping, tree trimming, and other extras are being eliminated to maintain the operating budget within projected revenues from the capped assessment rates.

There are no legal requirements or formal guidelines for the amount of reserves in an assessment district; however, at least 50% is required to cover cash flow. A reserve between 100% and 200% is recommended by staff to cover cash flow, future capital projects, and emergencies.

Attachments

Attachment No. 1 - 15 Year Rate History

Attachment No. 2 - Landscape Maintenance District No. 4 Engineer's Report

Attachment No. 3 - 10 Year Fiscal Projection

Attachment No. 4 - Resolution No. 2020-27

Attachment No. 5 - Resolution No. 2020-28

CITY COUNCIL GOALS & OBJECTIVES: Enhance City Facilities and Infrastructure
Enhance the City Image and Effectiveness
Enhance City Programs and Activities

**West Covina
Landscape Maintenance District No.4
15 Rate History**

Fiscal Year	Per Unit Zone*
2020/21	
Proposed	\$464.00
2019/20	\$464.00
2018/19	\$464.00
2017/18	\$464.00
2016/17	\$464.00
2015/16	\$464.00
2014/15	\$464.00
2013/14	\$464.00
2012/13	\$464.00
2011/12	\$464.00
2010/11	\$464.00
2009/10	\$464.00
2008/09	\$464.00
2007/08	\$464.00
2006/07	\$464.00

*MD4 has nine (9) separate zones of benefit with varying assessment rates from \$49.16 to \$464.00 per assessment unit. The zone shown in the table is for a single parcel with a duplex and is the highest assessment per parcel.



City of West Covina

Landscape Maintenance District No. 4

FISCAL YEAR 2020/2021 ENGINEER'S REPORT

Intent Meeting: May 5, 2020

Public Hearing: June 2, 2020

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Suite 200

Temecula, CA 92590

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ENGINEER'S REPORT AFFIDAVIT

Landscape Maintenance District No. 4

City of West Covina County of Los Angeles, State of California

This Report describes the District including the improvements, budgets, parcels and assessments to be levied for FY 2020/2021 as they existed at the time of the passage of the Resolution of Intention. Reference is hereby made to the Los Angeles County Assessor's maps for a detailed description of the lines and dimensions of parcels within the District. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this _____ day of _____, 2020.

Willdan Financial Services
Assessment Engineer
On Behalf of the City of West Covina

By: _____

Susana Hernandez, Project Manager
District Administration Services

By: _____

Richard Kopecky
R. C. E. # 16742

TABLE OF CONTENTS

OVERVIEW	1
PROPOSITION 218 COMPLIANCE	3
I. PLANS AND SPECIFICATIONS	5
A. ZONES OF BENEFIT	5
B. DESCRIPTION OF WORK.....	7
C. IMPROVEMENTS AUTHORIZED BY THE 1972 ACT	8
D. DESCRIPTION OF IMPROVEMENTS AND SERVICES	9
II. METHOD OF APPORTIONMENT	10
A. BENEFIT ANALYSIS.....	10
B. ASSESSMENT METHODOLOGY.....	11
III. ESTIMATE OF COSTS	13
A. CAPITAL IMPROVEMENT PROJECT FUND	13
B. SUMMARY OF TOTAL COSTS	13
IV. BOUNDARY MAP	15
V. ASSESSMENT ROLL	17

OVERVIEW

The City of West Covina (“City”), annually levies and collects assessments in order to provide and maintain facilities, improvements and services within Landscape Maintenance District No. 4 (“District”). The District was established in 1975 pursuant to the *Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code* (“1972 Act”). The District was created at the request of the owner of the developments in lieu of forming a Homeowner’s Association. The funds collected are used to maintain landscaping, irrigation, hardscape, and paseo lighting on 130 acres of public open space within the boundaries of the District.

The Engineer’s Report (“Report”) has been prepared pursuant to Chapter 1, Article 4 and Chapter 3 of the 1972 Act, and presented to the City Council for their consideration and approval of the proposed improvements and services to be provided within the District and the levy and collection of annual assessments for Fiscal Year (“FY”) 2020/2021.

This Report describes the District, the improvements and the proposed assessments to be levied against properties in connection with the benefits the properties will receive from the maintenance and servicing of the District improvements for FY 2020/21. The annual assessments to be levied on properties within the District provide a funding source for the continued operation and maintenance of local landscape improvements installed in connection with the development of properties within the District. Each FY, the City establishes the District’s assessments based on an estimate of the costs to maintain, operate and service the landscape improvements and based upon available revenues including fund balances, City contributions and assessment limits. The costs of the improvements and the proposed annual assessments budgeted and assessed against properties within the District may include: the estimated expenditures for regular annual maintenance and repairs; incidental expenditures related to the operation and administration of the District; deficits or surpluses from prior years; revenues from other sources; and the collection of adequate funds for operational reserves or periodic expenditures including installments collected for long-term improvement projects. Each parcel is assessed proportionately for only those improvements, services and expenses for which the parcel will receive special benefit.

The word “parcel,” for the purposes of this Report, refers to an individual property assigned its own Assessor’s Parcel Number (“APN”) by the Los Angeles County (“County”) Assessor’s Office. The County Auditor/Controller uses Assessor’s Parcel Numbers and specific Fund Numbers to identify properties to be assessed on the tax roll for the special benefit assessments.

At a noticed annual Public Hearing, the City Council will accept all public comments and written protests regarding the District and the annual levy of assessments. Upon conclusion of the Public Hearing, the City Council will consider all public comments and review the Report. The City Council may order amendments to the Report or confirm the Report as submitted. Following final approval of the Report and

confirmation of the assessments the Council will, by Resolution, order the improvements to be made and confirm the levy and collection of assessments pursuant to the 1972 Act. The assessments as approved will be submitted to the County Auditor/Controller to be included on the property tax roll for each parcel.

While the budgets outlined in this Report reflect the estimated costs necessary to fully and adequately provide for the maintenance and operation of the improvements within the District, many of these estimated costs and associated services cannot be funded by the current assessment revenues. To fully fund the improvements, it will be necessary to increase assessment revenues which will require the support of the property owners for new or increased assessments through a ballot proceeding conducted under the provisions of the California Constitution Article XIII D. Although such proceedings are not being conducted this FY and the proposed District assessments for FY 2020/2021 are not being increased over the assessments levied in the prior FY, such assessment increases may be considered in the future due to the rising costs associated with the maintenance of District improvements.

As required by the 1972 Act, this Engineer's Report describes the improvements to be operated, maintained and serviced by the District, an estimated budget for the District improvements, and the proposed assessments to be levied upon each assessable lot or parcel within the District for FY 2020/2021.

This Report consists of five (5) parts:

Part I

Plans and Specifications: A general description of the District and the improvements for which parcels are assessed. The proposed assessments as outlined in this Report are based on the improvements that provide a special benefit to the properties within the District. The plans and specifications contained in this Report generally describe the nature, location and extent of the improvements.

Part II

Method of Apportionment: A description of how the proportionate amount of the assessments is to be charged in proportion to the benefits received by each lot or parcel within the boundaries of the District.

Part III

Estimate of Costs: An estimate of the annual costs to properly operate, maintain, and service the landscape improvements and appurtenant facilities. This budget includes an estimate of the maintenance costs and incidental expenses including, but not limited to: labor, materials, equipment and administration expenses as well as the collection of appropriate funding necessary to properly support the improvements. Not all services and costs identified in these budgets can be supported by the current assessment revenues and City contributions, and as such, City staff shall make the

determination of which services and activities shall be provided based on available revenues.

Part IV

Boundary Map: A diagram showing the boundaries of the District is provided in this Report and includes all parcels determined to receive special benefits from the improvements. Parcel identification, the lines and dimensions of each lot, parcel and subdivision of land within the District are shown on the Los Angeles County Assessor's Parcel Maps, and shall include any subsequent lot line adjustments or parcel changes therein. Reference is hereby made to the Los Angeles County Assessor's Parcel Maps for a detailed description of the lines and dimensions of each lot and parcel of land within the District. A diagram showing the overall boundaries of the District is on file with the City Clerk and the Office of the City Engineer, and by reference is made part of this Report.

Part V

Assessment Roll: A listing of the assessment amount associated with each parcel within the District. The assessments presented herein are unchanged from the previous FY.

PROPOSITION 218 COMPLIANCE

On November 5, 1996, California voters approved Proposition 218 ("Prop 218"). This Proposition amended the California Constitution and was the latest in a series of initiatives reducing the revenue-raising discretion of California local governments. The provisions of the Proposition, now California Constitution Articles XIII C and XIII D, can be summarized in four general areas:

1. Strengthens the general and special tax provisions of Proposition 13 and Proposition 62.
2. Extends the initiative process to all local taxes, assessments, fees, and charges.
3. Adds substantive and procedural requirements to assessments.
4. Adds substantive and procedural requirements to property-related fees and charges.

Prop 218 required that beginning July 1, 1997, all new and existing assessments (with some exceptions) must conform to new substantive and procedural requirements. However, certain assessments are exempted from these requirements until they are increased.

Generally, these exemptions include:

- (a) Assessments used exclusively to fund sidewalks, streets, sewers, water, flood control, drainage systems, or vector control.
- (b) Assessments imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed.
- (c) Assessments used exclusively for bond repayments, the cessation of which would violate the Contract Impairment Clause of the U.S. Constitution.
- (d) Assessments previously approved by a majority of voters.

Since the District and the related assessments were established in 1975 at the request of the owner of the property, the initial District assessments were not required to conform with the Article XIID substantive and procedural requirements. The maximum assessment rate for the District at the time of the passage of Prop 218 was \$464.00 previously approved by the City Council in FY 1989-90. Any subsequent increases in the assessments above the maximum rate previously approved by City Council prior to November 5, 1996 will be subject to the procedures and approval process of Section 4 of Article XIID of the California Constitution.

I. PLANS AND SPECIFICATIONS

A. ZONES OF BENEFIT

For FY 2020/2021, the parcels, lots, subdivisions and developments within the District are identified and grouped into nine (9) zones of benefit referred to as “Zones”. Each Zone reflects the landscape improvements associated with the development of properties in that Zone, in order to fairly and equitably apportion the net cost of providing those improvements to the properties that receive special benefits from the service and activities associated with those improvements. Most of the parcels in the District are identified as single-family and multi-family residential properties. All parcels receive special benefits from the improvements because of the increased desirability of a parcel that is located in an area with landscaping, and open space areas. Public agency parcels within the District will not be used for residential occupancies or commercial/industrial workplaces, and therefore, do not receive special benefit and will not be assessed. The assessments proposed to be levied on each property do not exceed the reasonable cost of proportional special benefit conferred on each property from the funded improvements.

The following is a brief description of the District Zones:

Zone A1:

Parcels in this zone are commercial properties, which are located at the intersections of major arterial roadways. These parcels are benefited by the District improvements to a lesser degree due to their proximity to the open space areas. Nonetheless, the parcels are benefited by aesthetically pleasing landscaping and open space areas which enhance the desirability of living in the District, because its promotion of evening business and industry vitality, and contribution to a positive nighttime visual image.

Zone A2:

Parcels in this zone are condominium type homes with open space areas located along the fringes of the zone. Due to the nature and higher density of the parcels and the higher intensity of the property use, the parcels derive benefits such as providing a more peaceful and relaxed lifestyle due to the surrounding open space areas.

Zone A3:

Parcels in this zone are made up of condominiums and apartment complexes with smaller areas of open space within the zone. Due to the denser housing within this zone, Zone A3 is distinctly benefited by the interspersed open space areas within the zone. Although open space areas are smaller than in other zones, the incorporation of such areas into Zone A3’s higher-intensity property uses peculiarly benefits Zone A3’s parcels by providing aesthetically pleasing landscaping and enhancing the desirability of living in Zone A3.

Zone A4:

Parcels in this zone are condominium type homes. The open space areas are in close proximity to the condominiums in this zone, thus providing the zone's parcels with benefits such as the enhancement of quality of life within the community characterized by openness, landscape and natural vistas, wildlife and relaxed, peaceful living.

Zone A5:

Parcels in this zone are made up of detached single-family homes with large open space areas in close proximity. Zone A5 parcels derive a benefit particular to their zone, based on the significant size and proximity of the open space areas to the parcels. The large open spaces in the vicinity of the parcels contribute to lower housing density due to the dedication of acreage for landscaping and natural areas, which thereby reduce the number of buildable parcels.

Zone A6:

Parcels in this zone are made up of detached single-family homes with open space areas located along the fringes of the zone. Having the open space areas along the perimeter of the zone is advantageous to the parcels within Zone A6 due to the open space areas' positive results on the parcels, such as attracting natural flora and fauna, providing a more peaceful and relaxed lifestyle.

Zone A7:

Parcels in this zone are made up of detached single-family homes. The open space areas are in close proximity to the single-family homes. These open space areas are connected with paseos that include concrete walkways and lights. These paseos provide for safe pedestrian travel within the zone and into adjacent Zone A9.

Zone A8:

Parcels in this zone are made up of four-plexes with open space areas located along the fringes of the zone that provide a barrier from the major arterial roadway. The strategic location of open space areas at the fringe create an aesthetically pleasing yet practical perimeter around the zone, which provides a more peaceful and relaxed lifestyle by attracting natural flora and fauna to Zone A8 parcels which, because of the close proximity to major arterial roadways, would not otherwise receive such benefit. Moreover, the higher-intensity property use receives a significant benefit from the natural vistas and landscaping provided by the open space areas.

Zone A9:

Parcels in this zone are made up of duplexes. The open space areas are in close proximity to the duplexes and are connected by paseos. The paseos are improved with concrete walkways and lights. These paseos provide for safe pedestrian travel within the zone and into adjacent Zone A7, and promote social interaction.

B. DESCRIPTION OF WORK

The existing facilities to be maintained and serviced include public open space area, lighting, parkway, and manufactured slopes and appurtenant facilities. There are approximately 130 acres of open space within the District.

The District will fund the costs in connection with the district maintenance and servicing including, but not limited to, personnel, electrical energy, water, materials, contracting services, and other expenses necessary for the satisfactory operation of these facilities. The facilities and improvements which have been constructed within the District and which will be maintained and serviced are described as follows:

Landscaping and Appurtenant Facilities

Facilities include but are not limited to: landscaping, planting, shrubbery, trees, irrigation system, hardscape, fixtures, sidewalk maintenance resulting from landscape growth and appurtenant facilities, in public right-of-way, parkways, and dedicated easements within the boundaries of said District.

Lighting and Appurtenant Facilities

Facilities include but are not limited to: poles, fixtures, bulbs, conduits, conductors, equipment including guys, anchors, posts and pedestals, metering devices and appurtenant facilities as required to provide lighting in the public right-of-way and dedicated easements within the boundaries of said District.

“Maintenance” means, as defined in the 1972 Act, the furnishing of services and materials for the ordinary and usual operation, maintenance and servicing of the landscaping, public lighting facilities and appurtenant facilities, including repair, removal or replacement of all or part of any of the landscaping, public lighting facilities or appurtenant facilities; providing for the life, growth, health, and beauty of the landscaping, including cultivation, irrigation, trimming, spraying, fertilizing and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid waste; and the cleaning, sandblasting and painting of walls and other improvements to remove or cover graffiti.

“Servicing” means the furnishing of water for the irrigation of landscaping and the maintenance of any of the public lighting facilities and furnishing of electrical energy for the public lighting facilities or for the lighting or operation of landscaping or appurtenant facilities.

C. IMPROVEMENTS AUTHORIZED BY THE 1972 ACT

As applicable or may be applicable to this proposed District, the 1972 Act defines improvements to mean one or any combination of the following:

- The installation or planting of landscaping.
- The installation or construction of statuary, fountains, and other ornamental structures and facilities.
- The installation or construction of public lighting facilities.
- The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.
- The maintenance or servicing, or both, of any of the foregoing.
- The acquisition of any existing improvement otherwise authorized pursuant to this section.

Incidental expenses associated with the improvements including, but not limited to:

- The cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment;
- The costs of printing, advertising, and the publishing, posting and mailing of notices;
- Compensation payable to the County for collection of assessments;
- Compensation of any engineer or attorney employed to render services;
- Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements;
- Any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.
- Costs associated with any elections held for the approval of a new or increased assessment.

D. DESCRIPTION OF IMPROVEMENTS AND SERVICES

The District is located in the southeasterly part of the City of West Covina. To encourage innovative housing types and neighborhood designs, and to preserve the ridgelines of the San Jose Hills, this area was developed with relatively narrow street right-of-way's and small lot sizes. The resulting surplus of land was converted to landscaped slope areas and park-like "green belt" areas containing walkways, landscaping, and lighting.

The detailed plans and specifications of the District improvements are on file in the office of the City Public Works Department and by reference are made part of this Report.

Ongoing and Completed Capital Improvement Projects:

FY 2020/21, improvements included:

- There are currently no ongoing and completed capital improvement projects for FY 2020/2021.

FY 2019/20, improvements included:

- Drought tolerant landscaping and water-wise irrigation improvements
- Basic maintenance and repair of pathways, electrical equipment, and irrigation system

Total Cost of Improvements: \$188,000

II. METHOD OF APPORTIONMENT

The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the construction, maintenance, and servicing of public lights, landscaping and appurtenant facilities. The 1972 Act further requires that the cost of these improvements be levied according to benefit rather than assessed value:

“The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.”

Because assessments are levied on the basis of benefit, they are not a tax, and, therefore, are not governed by Article XIII A of the California Constitution.

Section 22574 of the 1972 Act permits the designation of zones of benefits within any individual assessment district if "by reason of variation in the nature, location, and extent of the improvements, the various areas will receive different degrees of benefit from the improvements." Thus, the 1972 Act requires the levy of a true "assessment" rather than a "special tax."

The 1972 Act also permits certain parcels to be exempt from assessment. Excluded from these assessments are areas of all publicly owned property such as: public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, all public easements, and right-of-way's, all public parks, public greenbelts and parkways, and all public property being used for public purposes. However, per Proposition 218, any publicly owned property that benefits from District improvements shall be assessed its proportional share of District costs.

The formula used for calculating assessments in this District reflects the composition of the parcels, and the improvements and services provided in order to fairly apportion the costs based on estimated benefit to each parcel.

A. BENEFIT ANALYSIS

All parcels in the District derive benefit from the open space maintenance. The intent of this Report is to establish a methodology that fairly distributes the cost of the system in relation to the benefit received.

The assessment ratio for all properties is based on dwelling units. Each single-family residential parcel, condominium complex, apartment, duplex, multi-family residential, and other developed land, is assessed per dwelling unit. This pro-ration accounts for an adjustment for street right-of-way's and public easements.

B. ASSESSMENT METHODOLOGY

The methods of apportionment utilized for the District calculates the receipt of special benefit from the respective improvements based on the actual or proposed land use of the parcels. The special benefit received by each lot or parcel is equated to the overall land use of the parcel based on the parcel's actual land use or proposed planned development and is reliant upon the special benefit received from the improvements within the District.

To identify and determine the special benefit to be received by each parcel, it is necessary to consider the entire scope of the improvements. The costs associated with the improvements shall be fairly distributed among the parcels based upon the special benefit received by each parcel. Additionally, in compliance with Section 4 of Article XIID, each parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred to that parcel. The benefit formula used to determine the assessment obligation is therefore based upon both the improvements that benefit the parcels of the District as well as the proposed land use of each property as compared to other parcels that benefit from those specific improvements.

The assessment methodology and assessment rates proposed for FY 2020/2021 determined that all parcels receive special benefit for the landscape and lighting maintenance. In order to continue to provide the current level of maintenance services, the budget is proposed to be maintained at the FY 2019-20 level. Therefore, the assessment rates for the FY 2020/2021 are not proposed to be increased.

The District was established in 1975 prior to Proposition 218 requirements, and the assessment for all properties is based on dwelling units. Each single-family residential parcel, condominium complex, apartment, duplex, multi-family residential, and other developed land, is assessed per dwelling unit. The land-use classification for each parcel is based on the Los Angeles County Auditor/Controller's Assessment Roll.

The specific percent budget allocations, which were previously established for each zone, will not be increased in FY 2020/2021. To calculate the Assessment Rates, the budget for each zone is divided by the total number of Equivalent Dwelling Units ("EDU") in the zone.

The following table summarizes the different assessment rates for the different zone classifications and compares the proposed assessment with the prior year's assessment.

**City of West Covina
Landscape and Maintenance District No. 4
FY 2020/2021 Preliminary Assessment Summary and Comparison**

Zone	% of Budget	Parcel Count	EDU	FY 2019-20 Assessment Rates	FY 20-21 Proposed Assessment Rates	Total Assessment
A1	2%	30	451	\$49.16	\$49.16	\$22,171.16
A2	2%	218	319	\$77.89	\$77.89	24,846.91
A3	13%	326	2,651	\$49.33	\$49.33	130,773.83
A4	11%	498	497	\$232.48	\$232.48	115,542.56
A5	4%	157	157	\$260.98	\$260.98	40,973.86
A6	7%	246	246	\$289.99	\$289.99	71,337.54
A7	52%	1,549	1,548	\$348.02	\$348.02	538,734.96
A8	5%	118	117	\$386.66	\$386.66	45,239.22
A9	4%	88	88	\$464.00	\$464.00	40,832.00
Total*	100%	3,230	6,074			\$1,030,452.04

*Totals may not foot due to rounding

BENEFIT ZONE LEGEND

-
- A1 Commercial Property
 - A2 Condos (Triangle Area, East of Azusa Ave. and north of Woodgrove Park)
 - A3 Condos Minimum Maintenance Benefit
 - A4 Condos Medium Maintenance Benefit
 - A5 Single Family Triangle Area (Special Area, West of Azusa Ave and north of Amar Rd.)
 - A6 Single Family Medium Maintenance Benefit
 - A7 Single Family Maximum Maintenance Benefit
 - A8 Four-plex Minimum Maintenance Benefit
 - A9 Duplex Minimum Maintenance Benefit

III. ESTIMATE OF COSTS

The total estimate of costs for maintenance of the proposed improvements for FY 2020/2021, as defined under Section 22569 of the 1972 Act, are those as hereinafter set forth. Said cost estimates include the total District costs for constructing or installing any proposed improvements and for maintenance and servicing the existing improvements including incidental expenses; the amount of any surplus or deficit in the maintenance fund to be carried over from the previous year; any annual installments to be collected over more than a single year; as well as the amount of any contributions to be made from any other sources.

A. CAPITAL IMPROVEMENT PROJECT FUND

For FY 2020/2021, there are no capital improvement projects.

B. SUMMARY OF TOTAL COSTS

The City's budget for the operation and service costs detail the estimated costs and fund balances for FY 2020/2021 as available at the time of preparation of this Report. The 1972 Act provides that the total cost can be recovered in the assessment spread including incidental expenses. The latter can include engineering fees, legal fees, printing, mailing, postage, publishing, and all other related costs identified with the District proceedings.

The 1972 Act requires that a special fund be set-up for the revenue and expenditures of the District. Funds raised by the assessment shall be used only for the purpose as stated herein. A contribution to the District by the City may be made to reduce assessments, as the City Council deems appropriate. Any balance or deficit remaining on July 1st must be carried over to the next FY.

**City of West Covina
Landscape Maintenance District No. 4
FY 2020/2021
Estimated Costs for Landscape Maintenance**

Expenditures

Direct Maintenance		Totals
Personnel Services		\$173,553
Materials and Services		
Maintenance Contracts	\$269,323	
Utilities (electricity & water)	345,000	
Maintenance Supplies	30,512	
Property & Liability Insurance	11,289	
Administration & Overhead	121,704	
Subtotal		\$777,828
 Engineering & Incidental		
Personnel Services	\$9,510	
NPDES	75,000	
Equipment Outlay	0	
Subtotal		\$84,510
Total Operating Budget		\$1,035,891
 Capital Improvement⁽¹⁾		0
Total Operating and Capital Budget		\$1,035,891
 Contingency and Reserves		
Cash Flow Reserves	\$517,946	
Contingency	1,290,610	
Total Contingency and Reserves		\$1,777,556

Total District Expenditures **\$2,813,447**

Revenues

Assessment Income (Total Balance to Levy)	\$1,030,452	
Interest	3,541	
Reimbursement from Landscape Maintenance District No. 2	9,000	
Total Projected Revenue		\$1,042,993
Projected Fund Balance (6/30/20)		1,770,454

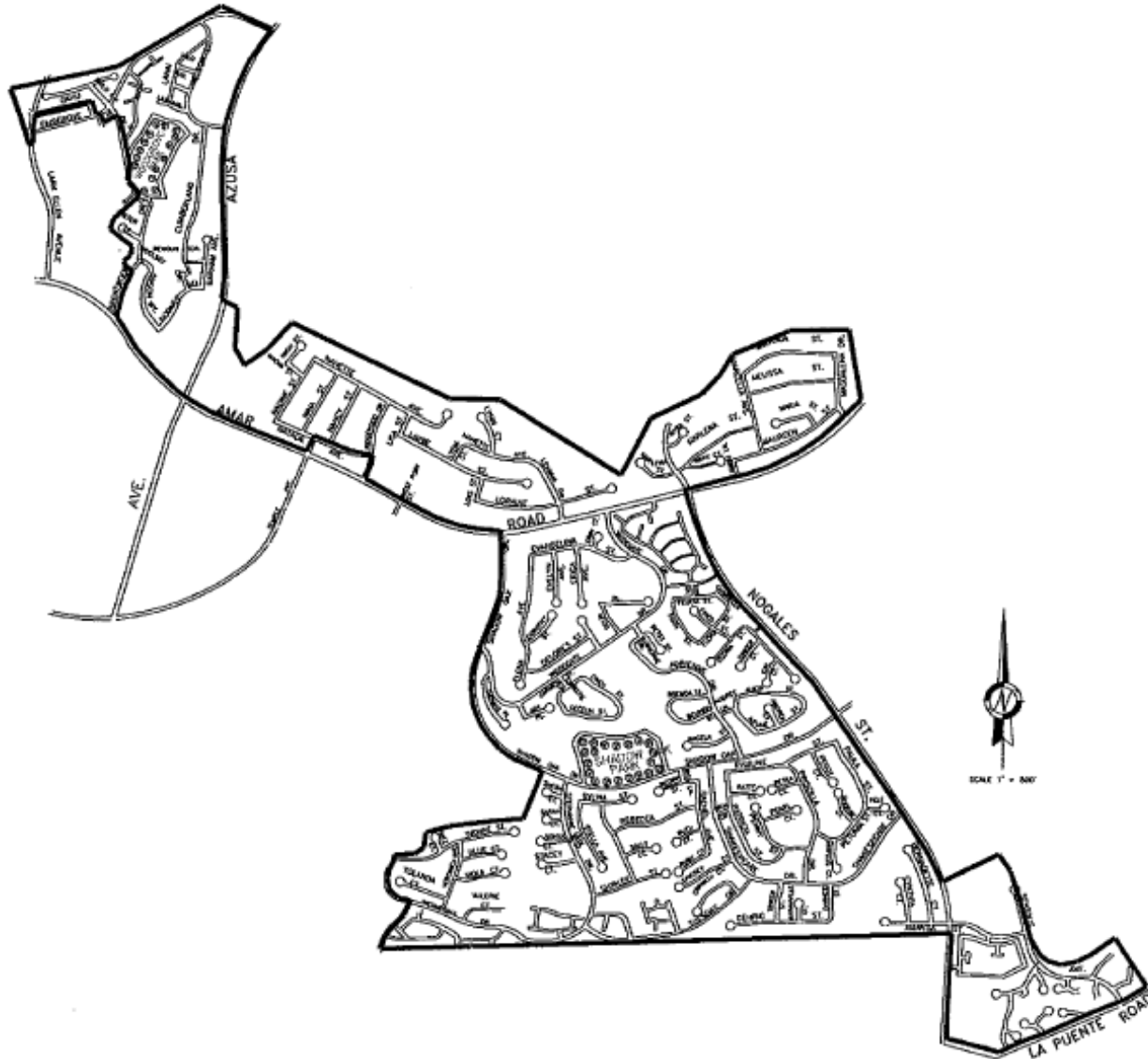
Total Funds Available **\$2,813,447**

⁽¹⁾ See Capital Project Fund Section III. A.

IV. BOUNDARY MAP

A diagram showing the exterior boundaries of the District, boundaries of any zone within the District and the lines and dimensions of each lot or parcel of land within the District is on file in the Office of the City Engineer and incorporated herein by reference. The lines and dimensions shown on the Los Angeles County Assessor's parcel maps for the current year are incorporated by reference and made part of this Report.

CITY OF WEST COVINA LANDSCAPE MAINTENANCE DISTRICT NO. 4



V. ASSESSMENT ROLL

Parcel identification for each lot or parcel within the District shall be the parcel as shown on the Los Angeles County Secured Roll for the year in which this Report is prepared and reflective of the Assessor's Parcel Maps. A listing of the proposed lots and parcels to be assessed within this District along with the assessment amounts shall be submitted to the City Clerk, under a separate cover, and by reference is made part of this Report.

West Covina Landscape Maintenance District No. 4
10 Year Fiscal Projection

Percent Increase	-1%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Fiscal Year	20-21	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30
Assessment Income	\$1,030,452	\$1,030,452	\$1,030,452	\$1,030,452	\$1,030,452	\$1,030,452	\$1,030,452	\$1,030,452	\$1,030,452	\$1,030,452
Interest (1)	3,541	3,555	3,528	3,458	3,346	3,189	2,987	2,738	2,443	2,099
Transfer In From District 2	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000
Prior Year Balance	1,770,454	1,777,556	1,763,955	1,729,195	1,672,810	1,594,326	1,493,260	1,369,117	1,221,395	1,049,579
Total Funding	\$2,813,447	\$2,820,564	\$2,806,935	\$2,772,105	\$2,715,607	\$2,636,967	\$2,535,698	\$2,411,308	\$2,263,290	\$2,091,130
Maintenance Costs (2)	1,035,891	1,056,608	1,077,741	1,099,295	1,121,281	1,143,707	1,166,581	1,189,913	1,213,711	1,237,985
Capital Improvements										
Total Cost	\$1,035,891	\$1,056,608	\$1,077,741	\$1,099,295	\$1,121,281	\$1,143,707	\$1,166,581	\$1,189,913	\$1,213,711	\$1,237,985
Ending Balance	\$1,777,556	\$1,763,955	\$1,729,195	\$1,672,810	\$1,594,326	\$1,493,260	\$1,369,117	\$1,221,395	\$1,049,579	\$853,145
Cash Flow	517,945	528,304	538,870	549,648	560,641	571,853	583,291	594,956	606,855	618,993
Over/Under	1,259,611	1,235,651	1,190,324	1,123,162	1,033,685	921,406	785,827	626,439	442,723	234,152
Assessment of Highest Zone (3)	\$464	\$464	\$464	\$464	\$464	\$464	\$464	\$464	\$464	\$464

Notes: (1) Interest is 0.4% of one-half of the previous year ending balance.

(2) 2% increase in maintenance cost each year due to inflation.

(3) Previously approved maximum highest rate of \$464, may not be increased further without vote.

(4) The Reduction in Assessment revenue is due to a decrease in EDU from 256 FY2019/20 to 104 in FY2020/2021 for parcel 8734-027-001.

RESOLUTION NO. 2020-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 4

WHEREAS, the City's Landscape Maintenance District No. 4 (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500 *et seq.*) (the "Act") to fund the maintenance and servicing of certain public landscaping and appurtenant facilities in the City and

WHEREAS, in connection with the District, the City annually levies an assessment against real property; and

WHEREAS, the City Council desires to initiate proceedings to levy the assessment for Fiscal Year 2020-21 in connection with the District; and

WHEREAS, no increased assessments, new improvements nor substantial changes in existing improvements within the District are proposed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are true and correct.

SECTION 2. The City Council orders Willdan Financial Services, as assessment engineer, to prepare and file with the City Clerk a report on the assessment in connection with the District for Fiscal Year 2020-21. Such report shall include all information required by Section 22565 *et seq.* of the Act.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

APPROVED AND ADOPTED this 5th day of May 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-27 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk

RESOLUTION NO. 2020-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 4, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

WHEREAS, the City's Landscape Maintenance District No. 4 (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500 *et seq.*) (the "Act") to fund the maintenance and servicing of certain public landscaping and appurtenant facilities in the City; and

WHEREAS, in connection with the District, the City annually levies an assessment against real property; and

WHEREAS, by its Resolution No. 2020-27, adopted May 5, 2020, the City Council directed Willdan Financial, as assessment engineer (the "Engineer"), to prepare and file a report regarding the District; and

WHEREAS, the Engineer has filed said report, entitled "City of West Covina, Landscape Maintenance District No. 4, Fiscal Year 2020/2021 Engineer's Report" (the "Report") and the Report is on file and available for public inspection in the Office of the City Clerk and is incorporated herein by reference; and

WHEREAS, the City Council desires to continue with proceedings to levy the assessment in connection with the District for Fiscal Year 2020-21 as described in the Report.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Report is preliminarily approved.

SECTION 2. The City Council declares its intention to levy and collect assessments within the District for Fiscal Year 2020-21 and notes that:

- (a) The distinctive name of the District is the "City of West Covina Landscape Maintenance District No. 4."
- (b) The District is generally located in the southeasterly part of the City.
- (c) The existing and proposed improvements are generally described as to landscaping, irrigation, hardscape, and paseo lighting on 130 acres of public open space within the boundaries of the District. No substantial changes are proposed to the nature of the improvements.

- (d) Reference is made to the Engineer's Report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the District.
- (e) The rate of this assessment is not proposed to increase from the rate levied in Fiscal Year 2019-20.

SECTION 3. A Public Hearing is set for Tuesday, June 2, 2020, at 7:00 p.m. in the City Council Chambers located at 1444 West Garvey Avenue South in the City of West Covina, which hearing may be conducted electronically if the City Council Chambers remain closed due to the COVID-19 pandemic, to take the testimony on the issue of whether or not the assessments should be approved.

SECTION 4. The City Clerk shall give notice of said Public Hearing in the time, form, and manner as required by law, including but not limited to publication of this resolution in accordance with Streets and Highways Code Sections 22552 and 22553.

SECTION 5. The City Council finds that the levy and collection of these assessments is statutorily exempt from the California Environmental Quality Act under § 15273 of the Guidelines, as none of the proceeds will be used for capital expenses, but will be used instead for operation and maintenance.

SECTION 6. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

APPROVED AND ADOPTED this 5th day of May 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-28 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

SUBJECT: CONSIDERATION OF RENEWAL OF LANDSCAPE MAINTENANCE DISTRICT NO. 6 — ORDERING OF ENGINEER'S REPORT AND PRELIMINARY APPROVAL OF THE ENGINEER'S REPORT

RECOMMENDATION:

It is recommended that the City Council take the following actions:

1. Adopt the following resolution:

RESOLUTION NO. 2020-29 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 6

2. Following adoption of Resolution No. 2020-29, adopt the following resolution:

RESOLUTION NO. 2020-30 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 6, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

BACKGROUND:

The Landscaping and Lighting Act of 1972 (California Streets and Highways Code section 22500 et seq.) (the "Act") specifies the procedures for renewal of landscape maintenance districts. Landscape Maintenance District No. 6 (LMD6) was established in 1980 at the request of the developer in lieu of forming a Homeowners' Association. LMD6 is generally located in the easterly end of the City known as South Hills. The funds collected by the district are used to maintain landscaping and irrigation in public open space areas within its boundaries. LMD6 contains 238 single-family dwellings, approximately 12 acres of landscaped and irrigated areas,

and approximately 65 acres of natural area.

DISCUSSION:

The initial step of the renewal process is to adopt Resolution No. 2020-29, ordering the Engineer's Report.

This report has been completed and includes plans and specifications for improvements, estimated costs, assessment diagrams, and assessments spread to cover the estimated costs. The report was prepared in accordance with the Act.

The next step in the renewal process is the preliminary approval of the Engineer's Report and adoption of Resolution of Intention concerning the levy and collection of assessments for LMD6. Staff is recommending setting a public hearing date of June 2, 2020 as required in the Act. At the public hearing, the City Council will consider all written and oral comments regarding the level of assessments, and the maintenance and capital improvement work proposed for LMD6. The renewal process requires that a public notice be posted and published in a locally circulated newspaper, but does not require notices be mailed to each resident. Upon the conclusion of the hearing, the City Council should adopt a resolution confirming the diagram and assessment levy either as proposed or as changed by the City Council.

At this time, staff recommends that the assessment rates be maintained at their current levels for Fiscal Year 2020-2021. The annual assessment rates for LMD6 will be maintained at \$650 per lot annually (\$54.16 per month).

Key point: For various reasons rates have not been increased since 2009, which has led to reduced services and increased concerns by residents. Staff is suggesting that the City conduct a full study of what a proper level of maintenance would cost and explore how to set the assessment rate accordingly. Maintenance districts are supposed to be self-funded and not rely on a general fund contribution. The study will take several months and if rates are to be increased it will require a Proposition 218 mail vote of the affected property owners.

LEGAL REVIEW:

The City Attorney's Office has reviewed and approved the resolutions as to form.

OPTIONS:

The City Council has the following options:

1. Maintain the assessment rates at their current levels. The attached "10-Year Fiscal Projection" shows rates being maintained at their current levels and the reserve levels over the next 10 years. Staff is recommending this option.
2. Reduce the assessment rates; LMD6's reserves will be depleted at a faster pace requiring the City's General Fund to subsidize the district.
3. To increase the assessment rates above the maximum rate of \$650 annually. LMD6 would need to comply with the mail ballot provision of Proposition 218.
4. To not renew the district. If the City Council does not wish to continue the district and wishes to fund the district from the General Fund, the resolutions are not necessary.

Prepared by: Michael Ackerman, City Engineer

Fiscal Impact

FISCAL IMPACT:

The Fiscal Year 2020-2021 Engineer's Report for LMD6 recommends that the assessment rates be maintained at their current levels. The assessment rate for LMD6 is based on a special uniform benefit to the property owners and is recommended to remain at its current level of \$650 per lot annually (\$54.16 per month). The projected income from the recommended rates is \$154,700. Including the balance of \$168,511 from the previous year, the total funds available is \$323,211.

The preliminary operating budget for LMD6 is \$165,186, which is an increase of 2% when compared to the approved/amended budget for Fiscal Year 2019-2020. The proposed operating budget funds only the regular landscape maintenance services.

There are no legal requirements or formal guidelines for the amount of reserves in an assessment district; however, at least 50% is required to cover cash flow. A reserve between 100% and 200% is recommended by staff to cover cash flow, future capital projects, emergencies, and as a benefit it also provides interest income

Attachments

Attachment No. 1 - 15 Year Rate History

Attachment No. 2 - Landscape Maintenance District No. 6 - Engineer's Report

Attachment No. 3 - 10 Year Fiscal Projection

Attachment No. 4 - Resolution No. 2020-29

Attachment No. 5 - Resolution No. 2020-30

CITY COUNCIL GOALS & OBJECTIVES: Enhance City Facilities and Infrastructure
Enhance the City Image and Effectiveness
Enhance City Programs and Activities

**West Covina
Landscape Maintenance District No.6
15 Year Rate History**

Fiscal Year	Per Unit Zone
2020/2021 Proposed	\$650.00
2019/20	\$650.00
2018/19	\$650.00
2017/18	\$650.00
2016/17	\$650.00
2015/16	\$650.00
2014/15	\$650.00
2013/14	\$650.00
2012/13	\$650.00
2011/12	\$650.00
2010/11	\$650.00
2009/10	\$617.41
2008/09	\$588.01
2007/08	\$520.36
2006/07	\$460.49



City of West Covina

Landscape Maintenance District No. 6

FISCAL YEAR 2020/2021 ENGINEER'S REPORT

Intent Meeting: May 5, 2020

Public Hearing: June 2, 2020

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F. 951.587.3510 | 888.326.6864

Property Tax Information Line

T.866.807.6864

www.willdan.com



ENGINEER'S REPORT AFFIDAVIT

Landscape Maintenance District No. 6

City of West Covina County of Los Angeles, State of California

This Report describes the District including the improvements, budgets, parcels and assessments to be levied for Fiscal Year 2020/2021 as they existed at the time of the passage of the Resolution of Intention. Reference is hereby made to the Los Angeles County Assessor's maps for a detailed description of the lines and dimensions of parcels within the District. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this _____ day of _____, 2020.

Willdan Financial Services
Assessment Engineer
On Behalf of the City of West Covina

By: _____

Chonney Gano, Project Manager
District Administration Services

By: _____

Richard Kopecky
R. C. E. # 16742

TABLE OF CONTENTS

OVERVIEW	1
PROPOSITION 218 COMPLIANCE	3
I. PLANS AND SPECIFICATIONS	5
A. DESCRIPTION OF WORK.....	5
B. IMPROVEMENTS AUTHORIZED BY THE 1972 ACT	5
C. DESCRIPTION OF IMPROVEMENTS AND SERVICES	7
II. METHOD OF APPORTIONMENT	8
A. BENEFIT ANALYSIS.....	8
B. ASSESSMENT METHODOLOGY.....	9
III. ESTIMATE OF COST	10
A. CAPITAL IMPROVEMENT PROJECT FUND	10
B. SUMMARY OF TOTAL COSTS	11
IV. BOUNDARY MAP	13
V. ASSESSMENT ROLL	15

OVERVIEW

The City of West Covina (“City”), annually levies and collects assessments in order to provide and maintain facilities, improvements and services within Landscape Maintenance District No. 6 (“District”). The District was established in 1980 pursuant to the *Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code* (“1972 Act”). The District was created at the request of the owner of the development in lieu of forming a Homeowner’s Association. The funds collected by the District are used to maintain landscaping and irrigation in public open space areas within its boundaries.

The Engineer’s Report (“Report”) has been prepared pursuant to Chapter 1, Article 4 and Chapter 3 of the 1972 Act, and presented to the City Council for their consideration and approval of the proposed improvements and services to be provided within the District and the levy and collection of annual assessments for Fiscal Year (“FY”) 2020/2021.

This Report describes the District, the improvements and the proposed assessments to be levied against properties in connection with the benefits the properties will receive from the maintenance and servicing of the District improvements for FY 2020/2021. The annual assessments to be levied on properties within the District provide a funding source for the continued operation and maintenance of local landscape improvements installed in connection with the development of properties within the District. Each fiscal year, the City establishes the District’s assessments based on an estimate of the costs to maintain, operate and service the landscape improvements and based upon available revenues including fund balances, City contributions and assessment limits. The costs of the improvements and the proposed annual assessments budgeted and assessed against properties within the District may include: the estimated expenditures for regular annual maintenance and repairs; incidental expenditures related to the operation and administration of the District; deficits or surpluses from prior years; revenues from other sources; and the collection of adequate funds for operational reserves or periodic expenditures including installments collected for long-term improvement projects. Each parcel is assessed proportionately for only those improvements, services and expenses for which the parcel will receive special benefit.

The word “parcel,” for the purposes of this Report, refers to an individual property assigned its own Assessor’s Parcel Number (“APN”) by the Los Angeles County (“County”) Assessor’s Office. The County Auditor/Controller uses Assessor’s Parcel Numbers and specific Fund Numbers to identify properties to be assessed on the tax roll for the special benefit assessments.

At a noticed annual Public Hearing, the City Council will accept all public comments and written protests regarding the District and the annual levy of assessments.

Upon conclusion of the Public Hearing, the City Council will consider all public comments and review the Report. The City Council may order amendments to the Report or confirm the Report as submitted. Following final approval of the Report and confirmation of the assessments the Council will, by Resolution, order the improvements to be made and confirm the levy and collection of assessments pursuant to the 1972 Act. The assessments as approved will be submitted to the County Auditor/Controller to be included on the property tax roll for each parcel.

While the budgets outlined in this Report reflect the estimated costs necessary to fully and adequately provide for the maintenance and operation of the improvements within the District, many of these estimated costs and associated services cannot be funded by the current assessment revenues. To fully fund the improvements, it will be necessary to increase assessment revenues which will require the support of the property owners for new or increased assessments through a ballot proceeding conducted under the provisions of the California Constitution Article XIII D. Although such proceedings are not being conducted this fiscal year and the proposed District assessments for FY 2020/2021 are not being increased over the assessments levied in the prior fiscal year, such assessment increases may be considered in the future due to the rising costs associated with the Maintenance District improvements.

As required by the 1972 Act, this Engineer's Report describes the improvements to be operated, maintained and serviced by the District, an estimated budget for the District improvements, and the proposed assessments to be levied upon each assessable lot or parcel within the Maintenance District for FY 2020/2021.

This Report consists of five (5) parts:

Part I

Plans and Specifications: A general description of the District and the improvements for which parcels are assessed. The proposed assessments as outlined in this Report are based on the improvements that provide a special benefit to the properties within the District. The plans and specifications contained in this Report generally describe the nature, location and extent of the improvements.

Part II

Method of Apportionment: A description of how the proportionate amount of the assessments is to be charged in proportion to the benefits received by each lot or parcel within the boundaries of the District.

Part III

Estimate of Costs: An estimate of the annual costs to properly operate, maintain, and service the landscape improvements and appurtenant facilities. This budget includes an estimate of the maintenance costs and incidental expenses including,

but not limited to: labor, materials, equipment and administration expenses as well as the collection of appropriate funding necessary to properly support the improvements. Not all services and costs identified in these budgets can be supported by the current assessment revenues and City contributions, and as such, City staff shall make the determination of which services and activities shall be provided based on available revenues.

Part IV

Boundary Map: A diagram showing the boundaries of the District is provided in this Report and includes all parcels determined to receive special benefits from the improvements. Parcel identification, the lines and dimensions of each lot, parcel and subdivision of land within the District are shown on the Los Angeles County Assessor's Parcel Maps, and shall include any subsequent lot line adjustments or parcel changes therein. Reference is hereby made to the Los Angeles County Assessor's Parcel Maps for a detailed description of the lines and dimensions of each lot and parcel of land within the District. A diagram showing the overall boundaries of the District is on file with the City Clerk and the Office of the City Engineer, and by reference is made part of this Report.

Part V

Assessment Roll: A listing of the assessment amount associated with each parcel within the District. The assessments presented herein are unchanged from the previous fiscal year.

PROPOSITION 218 COMPLIANCE

On November 5, 1996, California voters approved Proposition 218 ("Prop 218"). This Proposition amended the California Constitution and was the latest in a series of initiatives reducing the revenue-raising discretion of California local governments. The provisions of the Proposition, now California Constitution Articles XIII C and XIII D, can be summarized in four general areas:

1. Strengthens the general and special tax provisions of Proposition 13 and Proposition 62.
2. Extends the initiative process to all local taxes, assessments, fees, and charges.
3. Adds substantive and procedural requirements to assessments.
4. Adds substantive and procedural requirements to property-related fees and charges.

Prop 218 required that beginning July 1, 1997, all new and existing assessments (with some exceptions) must conform to new substantive and procedural

requirements. However, certain assessments are exempted from these requirements until they are increased.

Generally, these exemptions include:

- (a) Assessments used exclusively to fund sidewalks, streets, sewers, water, flood control, drainage systems, or vector control.
- (b) Assessments imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed.
- (c) Assessments used exclusively for bond repayments, the cessation of which would violate the Contract Impairment Clause of the U.S. Constitution.
- (d) Assessments previously approved by a majority of voters.

Since the District and the related assessments were established in 1980 at the request of the owner of the property, the initial District assessments were not required to conform with the Article XIID substantive and procedural requirements. The maximum assessment rate for the District at the time of the passage of Prop 218 was \$650.00 previously approved by the City Council in Fiscal Year 1984/'85. Any subsequent increases in the assessments above the maximum rate previously approved by City Council prior to November 5, 1996 will be subject to the procedures and approval process of Section 4 of Article XIID of the California Constitution.

I. PLANS AND SPECIFICATIONS

A. DESCRIPTION OF WORK

The existing facilities to be maintained and serviced include public open space, manufactured slopes, and appurtenant facilities. There are approximately 12 acres of landscaped and irrigated area and 65 acres of natural open space within the District.

The District will fund the costs in connection with the District maintenance and servicing including, but not limited to, personnel, electrical energy, water, materials, contracting services, and other expenses necessary for the satisfactory operation of these facilities. The facilities are described as follows:

Landscaping and Appurtenant Facilities

Facilities include but are not limited to trees, irrigation system, hardscape, fixtures, sidewalk maintenance resulting from landscape growth and appurtenant facilities, in open spaces and dedicated easements within the boundaries of the District.

“Maintenance” means the furnishing of services and materials for the ordinary and usual operation, maintenance and servicing of the landscaping, and appurtenant facilities, including repair, removal or replacement of all or part of any of the landscaping or appurtenant facilities; providing for the life, growth, health, and beauty of the landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid waste; and the cleaning, sandblasting and painting of walls and the improvements to remove or cover graffiti.

“Servicing” means the furnishing of water for the irrigation of landscaping and the maintenance or operation of landscaping or appurtenant facilities.

B. IMPROVEMENTS AUTHORIZED BY THE 1972 ACT

As applicable or may be applicable to this proposed District, the 1972 Act defines improvements to mean one or any combination of the following:

- The installation or planting of landscaping.
- The installation or construction of statuary, fountains, and other ornamental structures and facilities.
- The installation or construction of public lighting facilities.
- The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal

of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.

- The maintenance or servicing, or both, of any of the foregoing.
- The acquisition of any existing improvement otherwise authorized pursuant to this section.

Incidental expenses associated with the improvements including, but not limited to:

- The cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment;
- The costs of printing, advertising, and the publishing, posting and mailing of notices;
- Compensation payable to the County for collection of assessments;
- Compensation of any engineer or attorney employed to render services;
- Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements;
- Any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.
- Costs associated with any elections held for the approval of a new or increased assessment.

The 1972 Act defines "Maintain" or "Maintenance" to mean furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including:

- Repair, removal, or replacement of all or any part of any improvement.
- Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.
- The removal of trimmings, rubbish, debris, and other solid waste.
- The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

C. DESCRIPTION OF IMPROVEMENTS AND SERVICES

The District is located in the easterly end of the City known as South Hills on the westerly-facing slopes of the San Jose Hills. The District contains 238 single-family dwellings, approximately 12 acres of landscaped and irrigated area, and approximately 65 acres of natural area.

The following outlines the various improvements associated with the properties and developments throughout the District. The detailed plans and specifications of the District improvements are on file in the office of the City Public Works Department and by reference are made part of this Report.

FY 2020-21, improvements included:

- There were no improvements made for FY 2020-21.

II. METHOD OF APPORTIONMENT

The 1972 Act permits the establishment of assessment Districts by agencies for the purpose of providing certain public improvements which include the construction, maintenance, and servicing of public lights, landscaping and appurtenant facilities. The 1972 Act further requires that the cost of these improvements be levied according to benefit rather than assessed value:

“The net amount to be assessed upon lands within an assessment District may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.”

Because assessments are levied on the basis of benefit, they are not a tax, and, therefore, are not governed by Article XIII A of the California Constitution.

Section 22574 of the 1972 Act permits the designation of zones of benefits within any individual assessment District if "by reason of variation in the nature, location, and extent of the improvements, the various areas will receive different degrees of benefit from the improvements." Thus, the 1972 Act requires the levy of a true "assessment" rather than a "special tax."

The 1972 Act also permits certain parcels to be exempt from assessment. Excluded from these assessments are areas of all publicly owned property such as: public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, all public easements, and right-of-way, all public parks, public greenbelts and parkways, and all public property being used for public purposes. However, per Proposition 218, any publicly owned property that benefits from District improvements shall be assessed its proportional share of District costs.

The formula used for calculating assessments in this District reflects the composition of the parcels, and the improvements and services provided in order to fairly apportion the costs based on estimated benefit to each parcel.

A. BENEFIT ANALYSIS

All parcels in the District derive benefit from the maintenance and servicing of trees, landscaping, hardscaping and appurtenant facilities. The intent of this Report is to establish a methodology that fairly distributes the cost of the system in relation to the benefit received.

The assessment ratio for all properties is based on dwelling units. Each single family residential parcel, condominium complex, apartment, duplex, triplex, mobile home park, and other developed land is assessed per dwelling unit. This pro-rata accounts for an adjustment for street right-of-way and public easements.

B. ASSESSMENT METHODOLOGY

The methods of apportionment utilized for the District calculates the receipt of special benefit from the respective improvements based on the actual or proposed land use of the parcels. The special benefit received by each lot or parcel is equated to the overall land use of the parcel based on the parcel’s actual land use or proposed planned development, and is reliant upon the special benefit received from the improvements planned or existing within the District.

To identify and determine the special benefit to be received by each parcel, it is necessary to consider the entire scope of the improvements. The costs associated with the improvements shall be fairly distributed among the parcels based upon the special benefit received by each parcel. Additionally, in compliance with Section 4 of Article XIID, each parcel’s assessment may not exceed the reasonable cost of the proportional special benefit conferred to that parcel. The benefit formula used to determine the assessment obligation is therefore based upon both the improvements that benefit the parcels of the District as well as the proposed land use of each property as compared to other parcels that benefit from those specific improvements.

All properties in the District benefit from the maintenance and servicing of trees, landscaping, hardscaping and appurtenant facilities. There are 238 parcels within the District equaling 238 dwelling units.

Therefore, the assessment rate for the District is proposed to be maintained as:

$$\frac{\$154,700.00}{238} = \$650.00 \text{ DU}$$

The following table summarizes the assessment rates and compares the proposed assessment with last year's assessment.

**City of West Covina
Landscape Maintenance District No. 6
FY 2020/2021 Preliminary Assessment Summary and Comparison**

Assessment Year	# of Parcels	Dwelling Units	FY 2019/2020 Assessment Rate	FY 2020/2021 Proposed Assessment Rate	Total Assessment
2020/2021	238	238	\$650	\$650	\$154,700

III. ESTIMATE OF COST

The total estimate of costs for maintenance of the proposed improvements for FY 2020/2021, as defined under Section 22569 of the 1972 Act, are those as hereinafter set forth. Said cost estimates include the total District costs for constructing or installing any proposed improvements and for maintenance and servicing the existing improvements including incidental expenses; the amount of any surplus or deficit in the maintenance fund to be carried over from the previous year; any annual installments to be collected over more than a single year; as well as the amount of any contributions to be made from any other sources.

A. CAPITAL IMPROVEMENT PROJECT FUND

For FY 2020/2021, there are no capital improvements.

B. SUMMARY OF TOTAL COSTS

The City's budget for the operation and services costs detail the estimated costs and fund balances for FY 2020/2021 as available at the time of preparation of this Report. The 1972 Act provides that the total cost can be recovered in the assessment spread including incidental expenses. The latter can include engineering fees, legal fees, printing, mailing, postage, publishing, and all other related costs identified with the District proceedings.

The 1972 Act requires that a special fund be set-up for the revenue and expenditures of the District. Funds raised by assessment shall be used only for the purpose as stated herein. A contribution to the District by the City may be made to reduce assessments, as the City Council deems appropriate. Any balance or deficit remaining on July 1st must be carried over to the next fiscal year.

**City of West Covina
Landscape Maintenance District No. 6
Fiscal Year 2020/2021
Estimated Costs for Landscape Maintenance**

Expenditures

Direct Maintenance		Totals
Personnel Services		\$37,812
Materials and Services		
Maintenance Contracts	\$72,120	
Utilities (electricity & water)	23,000	
Property & Liability Insurance*	0	
Administration & Overhead*	5,202	
Best Management Practices Implementation	14,565	
Subtotal		\$114,887
Engineering & Incidental		
Full Time Salaries and Benefits	\$7,487	
NPDES	5,000	
Equipment Outlay	0	
Subtotal		\$12,487
Total Operating Budget		\$165,186
Capital Improvement ⁽¹⁾		0
Total Operating and Capital Budget		\$165,186
Contingency and Reserves		
Cash Flow Reserves	\$82,593	
Contingency	75,432	
Total Contingency and Reserves		\$158,025

Total District Expenditures	\$323,211
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Revenues

Assessment Income (Total Balance to Levy)	\$154,700	
Total Estimated Revenues		\$154,700

Projected Fund Balance (06/30/20)	168,511
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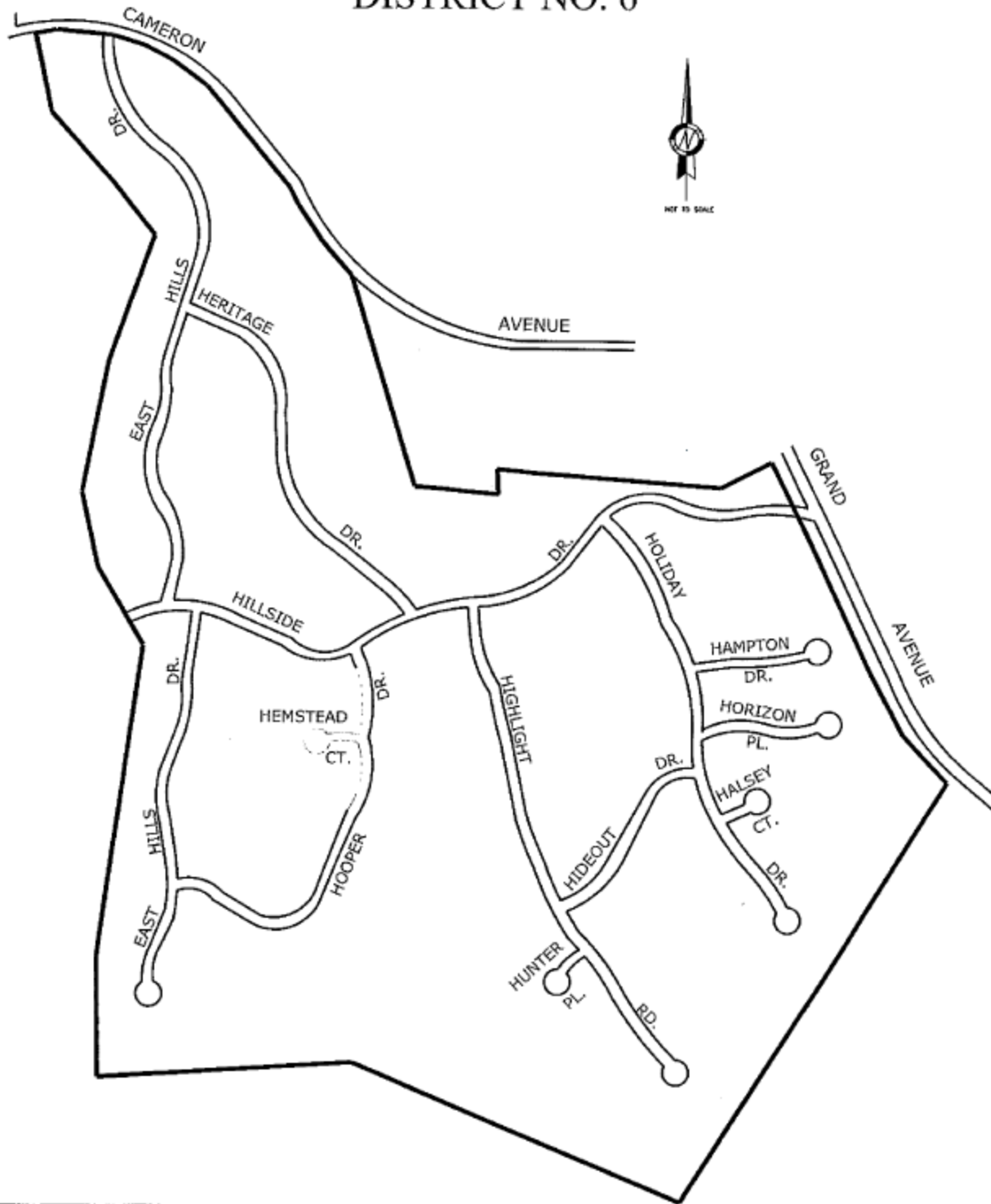
Total Funds Available	\$323,211
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⁽¹⁾ See Capital Improvement Project Fund Section III. A.

IV. BOUNDARY MAP

A diagram showing the exterior boundaries of the District and the lines and dimension of each lot or parcel of land within the District is on file in the Office of the City Engineer and incorporated herein by reference. The lines and dimensions shown on the Los Angeles County Assessor's parcel maps for the current year are incorporated by reference and made part of this Report.

CITY OF WEST COVINA LANDSCAPE MAINTENANCE DISTRICT NO. 6



V. ASSESSMENT ROLL

Parcel identification for each lot or parcel within the District shall be the parcel as shown on the Los Angeles County Secured Roll for the year in which this Report is prepared and reflective of the Assessor's Parcel Maps. A listing of the proposed lots and parcels to be assessed within this District along with the assessment amounts shall be submitted to the City Clerk, under a separate cover, and by reference is made part of this Report.

West Covina Landscape Maintenance District No. 6
 10 Year Fiscal Projection

Percent Increase	0%	0%	0%	0%	0%	0%	0%	0%	0%
Fiscal Year	20-21	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29
Assessment Income	\$154,700	\$154,700	\$154,700	\$154,700	\$154,700	\$154,700	\$154,700	\$154,700	\$154,700
Prior Year Balance	168,511	158,025	144,235	127,076	106,479	82,377	54,698	23,372	(11,675)
Total Funding	\$323,211	\$312,725	\$298,935	\$281,776	\$261,179	\$237,077	\$209,398	\$178,072	\$143,025
Maintenance Costs ⁽¹⁾	165,186	168,490	171,859	175,297	178,803	182,379	186,026	189,747	193,542
Total Cost	\$165,186	\$168,490	\$171,859	\$175,297	\$178,803	\$182,379	\$186,026	\$189,747	\$193,542
Ending Balance	\$158,025	\$144,235	\$127,076	\$106,479	\$82,377	\$54,698	\$23,372	(\$11,675)	(\$50,516)
Cash Flow	82,593	84,245	85,930	87,648	89,401	91,189	93,013	94,873	96,771
Over/Under	75,432	59,991	41,146	18,831	(7,025)	(36,491)	(69,641)	(106,548)	(147,287)
Assessment of Highest Zone ⁽²⁾	\$650	\$650	\$650	\$650	\$650	\$650	\$650	\$650	\$650

Notes: (1) 2% increase in maintenance cost each year due to inflation.

(2) Previously approved maximum highest rate of \$650, may not be increased further without vote.

RESOLUTION NO. 2020-29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 6

WHEREAS, the City's Landscape Maintenance District No. 6 (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500 *et seq.*) (the "Act") to fund the maintenance and servicing of certain public landscaping and appurtenant facilities in the City and

WHEREAS, in connection with the District, the City annually levies an assessment against real property; and

WHEREAS, the City Council desires to initiate proceedings to levy the assessment for Fiscal Year 2020-21 in connection with the District; and

WHEREAS, no increased assessments, new improvements nor substantial changes in existing improvements within the District are proposed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are true and correct.

SECTION 2. The City Council orders Willdan Financial Services, as assessment engineer, to prepare and file with the City Clerk a report on the assessment in connection with the District for Fiscal Year 2020-21. Such report shall include all information required by Section 22565 *et seq.* of the Act.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

APPROVED AND ADOPTED this 5th day of May 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-29 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk

RESOLUTION NO. 2020-30

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 6, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

WHEREAS, the City's Landscape Maintenance District No. 6 (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500 *et seq.*) (the "Act") to fund the maintenance and servicing of certain public landscaping and appurtenant facilities in the City; and

WHEREAS, in connection with the District, the City annually levies an assessment against real property; and

WHEREAS, by its Resolution No. 2020-29, adopted May 5, 2020, the City Council directed Willdan Financial, as assessment engineer (the "Engineer"), to prepare and file a report regarding the District; and

WHEREAS, the Engineer has filed said report, entitled "City of West Covina, Landscape Maintenance District No. 6, Fiscal Year 2020/2021 Engineer's Report" (the "Report") and the Report is on file and available for public inspection in the Office of the City Clerk and is incorporated herein by reference; and

WHEREAS, the City Council desires to continue with proceedings to levy the assessment in connection with the District for Fiscal Year 2020-21 as described in the Report.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Report is preliminarily approved.

SECTION 2. The City Council declares its intention to levy and collect assessments within the District for Fiscal Year 2020-21 and notes that:

- (a) The distinctive name of the District is the "City of West Covina Landscape Maintenance District No. 6."
- (b) The District is generally located in the easterly part of the City of West Covina on the westerly-facing slopes of the San Jose Hills.
- (c) The existing and proposed improvements are generally described as to landscaping and irrigation in public open space areas within the boundaries of the District. No substantial changes are proposed to the nature of the improvements.

- (d) Reference is made to the Engineer's Report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the District.
- (e) The rate of this assessment is not proposed to increase from the rate levied in Fiscal Year 2019-20.

SECTION 3. A Public Hearing is set for Tuesday, June 2, 2020, at 7:00 p.m. in the City Council Chambers located at 1444 West Garvey Avenue South in the City of West Covina, which hearing may be conducted electronically if the City Council Chambers remain closed due to the COVID-19 pandemic, to take the testimony on the issue of whether or not the assessments should be approved.

SECTION 4. The City Clerk shall give notice of said Public Hearing in the time, form, and manner as required by law, including but not limited to publication of this resolution in accordance with Streets and Highways Code Sections 22552 and 22553.

SECTION 5. The City Council finds that the levy and collection of these assessments is statutorily exempt from the California Environmental Quality Act under § 15273 of the Guidelines, as none of the proceeds will be used for capital expenses, but will be used instead for operation and maintenance.

SECTION 6. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

APPROVED AND ADOPTED this 5th day of May 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-30 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

**SUBJECT: CONSIDERATION OF RENEWAL OF LANDSCAPE MAINTENANCE DISTRICT NO. 7 —
ORDERING OF ENGINEER'S REPORT AND PRELIMINARY APPROVAL OF THE
ENGINEER'S REPORT**

RECOMMENDATION:

It is recommended that the City Council take the following actions:

1. Adopt the following resolution:

RESOLUTION NO. 2020-31 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 7

2. Following adoption of Resolution No. 2020-31, adopt the following resolution:

RESOLUTION NO. 2020-32 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 7, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

BACKGROUND:

The Landscaping and Lighting Act of 1972 (California Streets and Highways Code section 22500 et seq.) (the "Act") specifies the procedures for renewal of landscape maintenance districts. Landscape Maintenance District No. 7 (LMD7) was established in 1980 at the request of the developer in lieu of forming a Homeowners' Association. LMD7 is generally located in the easterly end of the City. The funds collected by the district are used to maintain landscaping and irrigation in public open space areas within its boundaries. Currently, LMD7 contains 372 improved and 8 unimproved single-family residential parcels. When development is 100 percent complete, LMD7 will contain 380 developed single residential parcels, 25 acres of landscaped and irrigated area, and 105 acres of natural area.

DISCUSSION:

The initial step of the renewal process is to adopt Resolution No. 2020-31, ordering the Engineer's Report.

This report has been completed and includes plans and specifications for improvements, estimated costs, assessment diagrams, and assessments spread to cover the estimated costs. The report was prepared in accordance with the Act.

The next step in the renewal process is the preliminary approval of the Engineer's Report and adoption of the Resolution of Intention concerning the levy and collection of assessments for LMD7. Staff is recommending setting a public hearing date of June 2, 2020 as required in the Act. At the public hearing, the City Council will consider all written and oral comments regarding the level of assessments, and the maintenance and capital improvement work proposed for LMD7. The renewal process requires that a public notice be posted and published in a locally circulated newspaper, but does not require notices be mailed to each resident. Upon the conclusion of the hearing, the City Council should adopt a resolution confirming the diagram and assessment levy either as proposed or as changed by the City Council.

At this time, staff is recommending that the assessment rates be maintained at their current levels for Fiscal Year 2020/2021. The annual assessment rates for LMD7 will be maintained at \$464.06 per developed lot and \$139.22 per undeveloped lot.

Key point: Over the past decade rates have increased very incrementally - the total increase since 2009 has been 8.6%, which is below the cumulative rate of inflation of 20.3%. This has led to reduced services and increased complaints from residents. Staff is suggesting that the City conduct a full study of what a proper level of maintenance would cost and explore how to set the assessment rate accordingly. Maintenance districts are supposed to be self-funded and not rely on a general fund contribution. The study will take several months and if rates are to be increased it will require a Proposition 218 mail vote of the affected property owners.

LEGAL REVIEW:

The City Attorney's Office has reviewed and approved the resolutions as to form.

OPTIONS:

The City Council has the following options:

1. Maintain the assessment rates at their current levels. The attached "10-Year Fiscal Projection" shows rates being maintained at their current levels and the reserve levels over the next 10 years. Staff is recommending this option.
2. Reduce the assessment rates; LMD7's reserves will be depleted at a faster pace requiring the City's General Fund to subsidize the district.
3. Increase the assessment rates above the previously approved maximum amounts. LMD7 would need to comply with the mail ballot provision of Proposition 218. In Fiscal Year 2009-2010, a mail ballot election on a proposed increase of the assessment rates was processed and not approved by the property owners.
4. To not renew the district. If the City Council does not wish to continue the district and wishes to fund the district from the General Fund, the resolutions are not necessary.

Prepared by: Michael, Ackerman, City Engineer

Fiscal Impact**FISCAL IMPACT:**

The Fiscal Year 2020/2021 Engineer's Report for LMD7 recommends that the assessment rates be maintained at their current levels. The annual assessment rates for LMD7 will be maintained at \$464.06 per improved lot and \$139.22 per unimproved lot. The total projected revenue is \$174,197 including interest. Including the \$226,379 balance from the previous year, the total funds available is \$400,576.

The preliminary operating budget for LMD7 for Fiscal Year 2020/2021 is \$174,711 which is a increase of 2% compared to the approved/amended budget for Fiscal Year 2019-20. The proposed operating budget funds not only the regular landscape maintenance but is also able to fund some improvements, such as irrigation system improvements and enhancement to existing landscaping.

Upon 100% completion of the development within LMD7, there will be 380 improved residential lots. The district's open space area will increase to 25 acres of landscaped and irrigated areas and 105 acres of open space, for a total of 130 acres. The total cost to maintain these areas is estimated at \$200,000.

There are no legal requirements or formal guidelines for the amount of reserves in an assessment district; however, at least 50% is required to cover cash flow. A reserve between 100% and 200% is recommended by staff to cover cash flow, future capital projects, emergencies, and as a benefit it also provides interest income.

Attachments

Attachment No. 1 - 15 Year Rate History

Attachment No. 2 - Landscape Maintenance District No. 7 Engineer's Report

Attachment No. 3 - 10 Year Fiscal Projection

Attachment No. 4 - Resolution No. 2020-31

Attachment No. 5 - Resolution No. 2020-32

CITY COUNCIL GOALS & OBJECTIVES: Enhance City Facilities and Infrastructure
Enhance the City Image and Effectiveness
Enhance City Programs and Activities

West Covina
 Landscape Maintenance District No.7
 15 Rate History

Fiscal Year	Improved Per Lot	Unimproved Per Lot
2020/21		
Proposed	\$464.06	\$139.22
2019/20	\$464.06	\$139.22
2018/19	\$464.06	\$139.22
2017/18	\$464.06	\$139.22
2016/17	\$464.06	\$139.22
2015/16	\$454.96	\$136.49
2014/15	\$454.96	\$136.49
2013/14	\$454.96	\$136.49
2012/13	\$446.04	\$133.81
2011/12	\$437.29	\$131.19
2010/11	\$428.72	\$128.62
2009/10	\$389.74	\$116.92
2008/09	\$354.31	\$106.29
2007/08	\$322.10	\$96.63
2006/07	\$292.82	\$87.85



City of West Covina

Landscape Maintenance District No. 7

FISCAL YEAR 2020/2021 ENGINEER'S REPORT

Intent Meeting: May 5, 2020

Public Hearing: June 2, 2020

27368 Via Industria
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Temecula, CA 92590

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ENGINEER'S REPORT AFFIDAVIT

Landscape Maintenance District No. 7

City of West Covina County of Los Angeles, State of California

This Report describes the District including the improvements, budgets, parcels and assessments to be levied for FY 2020/2021 as they existed at the time of the passage of the Resolution of Intention. Reference is hereby made to the Los Angeles County Assessor's maps for a detailed description of the lines and dimensions of parcels within the District. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this _____ day of _____, 2020.

Willdan Financial Services
Assessment Engineer
On Behalf of the City of West Covina

By: _____

Chonney Gano, Project Manager
District Administration Services

By: _____

Richard Kopecky
R. C. E. # 16742

TABLE OF CONTENTS

OVERVIEW	1
PROPOSITION 218 COMPLIANCE	3
I. PLANS AND SPECIFICATIONS	5
A. DESCRIPTION OF WORK.....	5
B. IMPROVEMENTS AUTHORIZED BY THE 1972 ACT	5
C. DESCRIPTION OF IMPROVEMENTS AND SERVICES.....	7
II. METHOD OF APPORTIONMENT	8
A. BENEFIT ANALYSIS.....	8
B. ASSESSMENT METHODOLOGY	8
III. ESTIMATE OF COSTS	11
A. CAPITAL IMPROVEMENT PROJECT FUND	11
B. SUMMARY OF TOTAL COSTS.....	12
IV. BOUNDARY MAP	14
V. ASSESSMENT ROLL	16

OVERVIEW

The City of West Covina (“City”), annually levies and collects assessments in order to provide and maintain facilities, improvements and services within Landscape Maintenance District No. 7 (“District”). The District was established in 1980 pursuant to the *Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code* (“1972 Act”). The District was created at the request of the owner of the development in lieu of forming a Homeowner’s Association. The funds collected by the District are used to maintain landscaping and irrigation in public open space areas within its boundaries.

The Engineer’s Report (“Report”) has been prepared pursuant to Chapter 1, Article 4 and Chapter 3 of the 1972 Act, and presented to the City Council for their consideration and approval of the proposed improvements and services to be provided within the District and the levy and collection of annual assessments for Fiscal Year (“FY”) 2020/2021.

This Report describes the District, the improvements and the proposed assessments to be levied against properties in connection with the benefits the properties will receive from the maintenance and servicing of the District improvements for FY 2020/2021. The annual assessments to be levied on properties within the District provide a funding source for the continued operation and maintenance of local landscape improvements installed in connection with the development of properties within the District. Each fiscal year, the City establishes the District’s assessments based on an estimate of the costs to maintain, operate and service the landscape improvements and based upon available revenues including fund balances, City contributions and assessment limits. The costs of the improvements and the proposed annual assessments budgeted and assessed against properties within the District may include: the estimated expenditures for regular annual maintenance and repairs; incidental expenditures related to the operation and administration of the District; deficits or surpluses from prior years; revenues from other sources; and the collection of adequate funds for operational reserves or periodic expenditures including installments collected for long-term improvement projects. Each parcel is assessed proportionately for only those improvements, services and expenses for which the parcel will receive special benefit.

The word “parcel,” for the purposes of this Report, refers to an individual property assigned its own Assessor’s Parcel Number (“APN”) by the Los Angeles County (“County”) Assessor’s Office. The County Auditor/Controller uses Assessor’s Parcel Numbers and specific Fund Numbers to identify properties to be assessed on the tax roll for the special benefit assessments.

At a noticed annual Public Hearing, the City Council will accept all public comments and written protests regarding the District and the annual levy of assessments. Upon conclusion of the Public Hearing, the City Council will consider all public comments and review the Report. The City Council may order amendments to the Report or confirm the Report as submitted. Following final approval of the Report and

confirmation of the assessments the Council will, by Resolution, order the improvements to be made and confirm the levy and collection of assessments pursuant to the 1972 Act. The assessments as approved will be submitted to the County Auditor/Controller to be included on the property tax roll for each parcel.

While the budgets outlined in this Report reflect the estimated costs necessary to fully and adequately provide for the maintenance and operation of the improvements within the District, many of these estimated costs and associated services cannot be funded by the current assessment revenues and contributions from the City. To fully fund the improvements, it will be necessary to increase assessment revenues which will require the support of the property owners for new or increased assessments through a ballot proceeding conducted under the provisions of the California Constitution Article XIII D. Although such proceedings are not being conducted this fiscal year and the proposed District assessments for FY 2020/2021 are not being increased over the assessments levied in the prior fiscal year, such assessment increases may be considered in the future due to the rising costs associated with the District improvements.

As required by the 1972 Act, this Engineer's Report describes the improvements to be operated, maintained and serviced by the District, an estimated budget for the District improvements, and the proposed assessments to be levied upon each assessable lot or parcel within the District for FY 2020/2021.

This Report consists of five (5) parts:

Part I

Plans and Specifications: A general description of the District and the improvements for which parcels are assessed. The proposed assessments as outlined in this Report are based on the improvements that provide a special benefit to the properties within the District. The plans and specifications contained in this Report generally describe the nature, location and extent of the improvements.

Part II

Method of Apportionment: A description of how the proportionate amount of the assessments is to be charged in proportion to the benefits received by each lot or parcel within the boundaries of the District.

Part III

Estimate of Costs: An estimate of the annual costs to properly operate, maintain, and service the landscape improvements and appurtenant facilities. This budget includes an estimate of the maintenance costs and incidental expenses including, but not limited to: labor, materials, equipment and administration expenses as well as the collection of appropriate funding necessary to properly support the improvements. Not all services and costs identified in these budgets can be supported by the current

assessment revenues and City contributions, and as such, City staff shall make the determination of which services and activities shall be provided based on available revenues.

Part IV

Boundary Map: A diagram showing the boundaries of the District is provided in this Report and includes all parcels determined to receive special benefits from the improvements. Parcel identification, the lines and dimensions of each lot, parcel and subdivision of land within the District are shown on the Los Angeles County Assessor's Parcel Maps, and shall include any subsequent lot line adjustments or parcel changes therein. Reference is hereby made to the Los Angeles County Assessor's Parcel Maps for a detailed description of the lines and dimensions of each lot and parcel of land within the District. A diagram showing the overall boundaries of the District is on file with the City Clerk and the Office of the City Engineer, and by reference is made part of this Report.

Part V

Assessment Roll: A listing of the assessment amount associated with each parcel within the District. The assessments presented herein are unchanged from the previous fiscal year.

PROPOSITION 218 COMPLIANCE

On November 5, 1996, California voters approved Proposition 218 ("Proposition"). This Proposition amended the California Constitution and was the latest in a series of initiatives reducing the revenue-raising discretion of California local governments. The provisions of the Proposition, now California Constitution Articles XIII C and XIII D, can be summarized in four general areas:

1. Strengthens the general and special tax provisions of Proposition 13 and Proposition 62.
2. Extends the initiative process to all local taxes, assessments, fees, and charges.
3. Adds substantive and procedural requirements to assessments.
4. Adds substantive and procedural requirements to property-related fees and charges.

Proposition 218 required that beginning July 1, 1997, all new and existing assessments (with some exceptions) must conform to new substantive and procedural requirements. However, certain assessments are exempted from these requirements until they are increased.

Generally, these exemptions include:

- (a) Assessments used exclusively to fund sidewalks, streets, sewers, water, flood control, drainage systems, or vector control.
- (b) Assessments imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed.
- (c) Assessments used exclusively for bond repayments, the cessation of which would violate the Contract Impairment Clause of the U.S. Constitution.
- (d) Assessments previously approved by a majority of voters.

Since the District and the related assessments were established in 1980 at the request of the owner of the property, the initial District assessments were not required to conform with the Article XIID substantive and procedural requirements. The maximum assessment rate for the District at the time of the passage of Prop 218 was \$644.00 previously approved by the City Council in FY 1985-86. Any subsequent increases in the assessments above the maximum rate previously approved by City Council prior to November 5, 1996 will be subject to the procedures and approval process of Section 4 of Article XIID of the California Constitution.

I. PLANS AND SPECIFICATIONS

A. DESCRIPTION OF WORK

The existing facilities to be maintained and serviced include public open spaces and manufactured slopes and appurtenant facilities. Upon completion, the District will contain 25 acres of landscaped and irrigated areas and 105 acres of natural open space.

The District will fund the costs in connection with the District maintenance and servicing including, but not limited to, personnel, electrical energy, water, materials, contracting services, and other expenses necessary for the satisfactory operation of these facilities. The facilities are described as follows:

Landscaping and Appurtenant Facilities

Facilities include but are not limited to: trees, irrigation system, hardscape, fixtures, sidewalk maintenance resulting from landscape growth and appurtenant facilities, in public open space areas and dedicated easements within the boundaries of the District.

“Maintenance” means the furnishing of services and materials for the ordinary and usual operation, maintenance and servicing of the landscaping and appurtenant facilities, including repair, removal or replacement of all or part of any of the landscaping or appurtenant facilities; providing for the life, growth, health, and beauty of the landscaping, including cultivation, irrigation, trimming, spraying, fertilizing and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid waste; and the cleaning, sandblasting and painting of walls and other improvements to remove or cover graffiti.

“Servicing” means the furnishing of water for the irrigation of landscaping and the maintenance or operation of landscaping or appurtenant facilities.

B. IMPROVEMENTS AUTHORIZED BY THE 1972 ACT

As applicable or may be applicable to this District, the 1972 Act defines improvements to mean one or any combination of the following:

- The installation or planting of landscaping.
- The installation or construction of statuary, fountains, and other ornamental structures and facilities.
- The installation or construction of public lighting facilities.
- The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or

servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.

- The maintenance or servicing, or both, of any of the foregoing.
- The acquisition of any existing improvement otherwise authorized pursuant to this section.

Incidental expenses associated with the improvements including, but not limited to:

- The cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment;
- The costs of printing, advertising, and the publishing, posting and mailing of notices;
- Compensation payable to the County for collection of assessments;
- Compensation of any engineer or attorney employed to render services;
- Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements;
- Any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.
- Costs associated with any elections held for the approval of a new or increased assessment.

The 1972 Act defines "Maintain" or "maintenance" to mean furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including:

- Repair, removal, or replacement of all or any part of any improvement.
- Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.
- The removal of trimmings, rubbish, debris, and other solid waste.
- The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

C. DESCRIPTION OF IMPROVEMENTS AND SERVICES

The District is generally located in the easterly end of the City on the north-facing slopes of the San Jose Hills. Currently, the District contains 372 improved single-family residential parcels, approximately 19.5 acres of landscaped and irrigated areas and 92 acres of natural area that is only 98 percent developed. When development is 100 percent complete, the District will contain 380 improved single residential parcels, 25 acres of landscaped and irrigated area, and 105 acres of natural area.

The detailed plans and specifications of the District Improvements are on file in the office of the City Public Works Department and by reference are made part of this Report.

Ongoing and Completed Capital Improvement Projects

FY 2020-21, improvements included:

- There were no improvements made for FY 2020-21.

II. METHOD OF APPORTIONMENT

The 1972 Act permits the establishment of assessment Districts by agencies for the purpose of providing certain public improvements which include the construction, maintenance, and servicing of public lights, landscaping and appurtenant facilities. The 1972 Act further requires that the cost of these improvements be levied according to benefit rather than assessed value:

“The net amount to be assessed upon lands within an assessment District may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.”

Because assessments are levied on the basis of benefit, they are not a tax, and, therefore, are not governed by Article XIII A of the California Constitution.

Pursuant to Section 22574 of the 1972 Act permits the designation of zones of benefits within any individual assessment District if "by reason of variation in the nature, location, and extent of the improvements, the various areas will receive different degrees of benefit from the improvements." Thus, the 1972 Act requires the levy of a true "assessment" rather than a "special tax."

The 1972 Act also permits certain parcels to be exempt from assessment. Excluded from these assessments are areas of all publicly owned property such as: public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, all public easements, and right-of-way, all public parks, public greenbelts and parkways, and all public property being used for public purposes. However, per Proposition 218, any publicly owned property that benefits from District improvements shall be assessed its proportional share of District costs.

The formula used for calculating assessments in this District reflects the composition of the parcels, and the improvements and services provided in order to fairly apportion the costs based on estimated benefit to each parcel.

A. BENEFIT ANALYSIS

All parcels in the District derive benefit from the open space maintenance. The intent of this report is to establish a methodology that fairly distributes the cost of the system in relation to the benefit received.

The assessment ratio for all properties is based on dwelling units. Each single family residential parcel, condominium complex, apartment, duplex, triplex, mobile home park, and other developed or undeveloped land is assessed per dwelling unit.

B. ASSESSMENT METHODOLOGY

The method of apportionment utilized for the District calculates the receipt of special benefit from the respective improvements based on the actual or proposed land use

of the parcels. The special benefit received by each lot or parcel is equated to the overall land use of the parcel based on the parcel's actual land use or proposed planned development, and is reliant upon the special benefit received from the improvements planned or existing within the District.

To identify and determine the special benefit to be received by each parcel, it is necessary to consider the entire scope of the improvements. The costs associated with the improvements shall be fairly distributed among the parcels based upon the special benefit received by each parcel. Additionally, in compliance with Section 4 of Article XIID, each parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred to that parcel. The benefit formula used to determine the assessment obligation is therefore based upon both the improvements that benefit the parcels of the District as well as the proposed land use of each property as compared to other parcels that benefit from those specific improvements.

The assessment methodology and assessment rates proposed for FY 2020/2021 determined that all parcels receive special benefit for the landscape maintenance. In order to continue to provide the current level of maintenance services, the budget is proposed to be maintained at the FY 2019-20 level. Therefore, the assessment rates for FY 2020/2021 are not proposed to be increased.

Zone classifications depends on whether a parcel is improved or unimproved, those properties that are improved receive the greater benefit from the service provided.

Zone C1 - All unimproved parcels within the District. There are 8 unimproved parcels.

Zone C2 - All improved parcels within the District. There are 372 improved parcels.

The land-use classification for each parcel has been based on the FY 2019-20 Los Angeles County Auditor/Controller's Assessment Roll.

The following table summarizes the different assessment rates for the different zone classifications, and compares the proposed assessment with the prior year's assessment.

**City of West Covina
Landscape Maintenance District No. 7
FY 2020-21 Preliminary Assessment Summary and Comparison**

ZONE	# of Parcels	FY 2019/2020 Assessment Rates	FY 2020/2021 Proposed Assessment Rates	Total Assessment
C1	8	\$139.22	\$139.22	\$1,113.76
C2	372	464.06	464.06	172,630.32
TOTAL	380			\$173,744.08

III. ESTIMATE OF COSTS

The total estimate of costs for maintenance of the proposed improvements for FY 2020/2021, as defined under Section 22569 of the 1972 Act, are those as hereinafter set forth. Said cost estimates include the total District costs for constructing or installing any proposed improvements and for maintenance and servicing the existing improvements including incidental expenses; the amount of any surplus or deficit in the maintenance fund to be carried over from the previous year; any annual installments to be collected over more than a single year; as well as the amount of any contributions to be made from any other sources.

A. CAPITAL IMPROVEMENT PROJECT FUND

For FY 2020/2021, there are no capital improvements.

B. SUMMARY OF TOTAL COSTS

The City's budget for the operation and services costs detail the estimated costs and fund balances for FY 2020/2021 as available at the time of preparation of this report. The 1972 Act provides that the total cost can be recovered in the assessment spread including incidental expenses. The latter can include engineering fees, legal fees, printing, mailing, postage, publishing, and all other related costs identified with the District proceedings.

The 1972 Act requires that a special fund be set-up for the revenue and expenditures of the District. Funds raised by assessment shall be used only for the purpose as stated herein. A contribution to the District by the City may be made to reduce assessments, as the City Council deems appropriate. Any balance or deficit remaining on July 1st must be carried over to the next fiscal year.

**City of West Covina
Landscape Maintenance District No. 7
Fiscal Year 2020/2021
Estimated Costs for Landscape Maintenance**

Expenditures

Direct Maintenance		Totals
Personnel Services		\$37,832
Materials and Services		
Maintenance Contracts	\$62,910	
Utilities (electricity & water)	34,200	
Supplies	0	
Property & Liability Insurance	3,572	
Administration & Overhead	<u>23,710</u>	
Subtotal		\$124,392
Engineering & Incidental		
Full Time Salaries and Benefits	\$7,487	
NPDES	<u>5,000</u>	
Subtotal		\$12,487
Total Operating Budget		\$174,711
Capital Improvement ⁽¹⁾		<u>\$0</u>
Total Operating and Capital Budget		\$174,711
Contingency and Reserves		
Cash Flow Reserves	\$87,356	
Contingency	<u>137,509</u>	
Total Contingency and Reserves		\$225,865

Total District Expenditures	\$400,576
------------------------------------	------------------

Revenues

Assessment Income (Total Balance to Levy)	\$173,744	
Interest	<u>453</u>	
Total Projected Revenue		\$174,197
Projected Fund Balance (6/30/20)		<u>226,379</u>

Total Funds Available	\$400,576
------------------------------	------------------

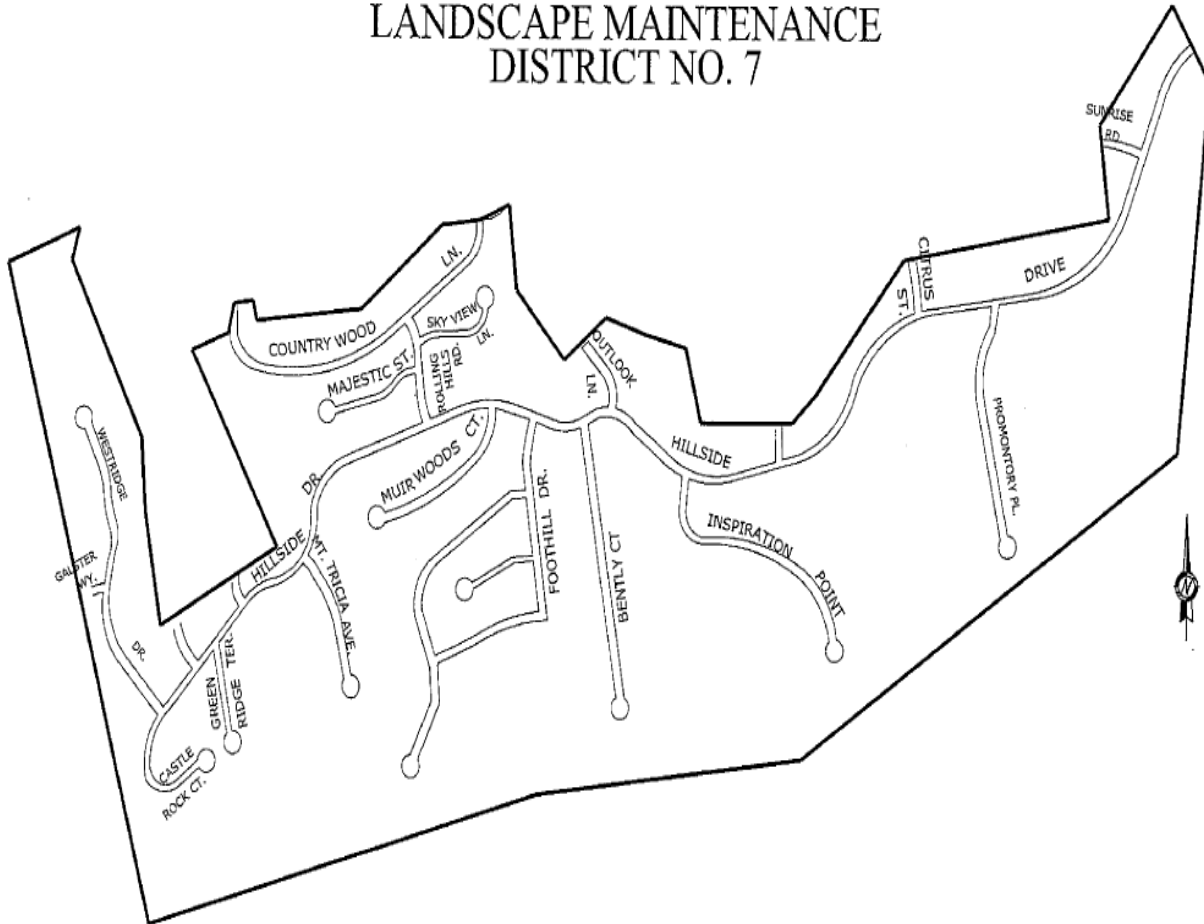
(1) See Capital Improvement Project Fund Section III. A

**Note: Totals may not foot due to rounding.

IV. BOUNDARY MAP

A diagram showing the exterior boundaries of the District, boundaries of any zone within the District and the lines and dimension of each lot or parcel of land within the District is on file in the Office of the City Engineer and incorporated herein by reference. The lines and dimensions shown on the Los Angeles County Assessor's parcel maps for the current year are incorporated by reference and made part of this Report.

CITY OF WEST COVINA
LANDSCAPE MAINTENANCE
DISTRICT NO. 7



V. ASSESSMENT ROLL

Parcel identification for each lot or parcel within the District shall be the parcel as shown on the Los Angeles County Secured Roll for the year in which this Report is prepared and reflective of the Assessor's Parcel Maps. A listing of the proposed lots and parcels to be assessed within this District along with the assessment amounts shall be submitted to the City Clerk, under a separate cover, and by reference is made part of this Report.

West Covina Landscape Maintenance District No. 7
10 Year Fiscal Projection

Percent Increase	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Fiscal Year	20-21	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30
Assessment Income	\$173,744	\$173,744	\$173,744	\$173,744	\$173,744	\$173,744	\$173,744	\$173,744	\$173,744	\$173,744
Interest (1)	453	452	444	429	406	376	339	293	240	179
Prior Year Balance	226,379	225,865	221,855	214,274	203,042	188,079	169,304	146,634	119,983	89,266
Total Funding	\$400,576	\$400,061	\$396,043	\$388,447	\$377,192	\$362,199	\$343,387	\$320,671	\$293,967	\$263,188
Maintenance Costs (2)	174,711	178,205	181,769	185,405	189,113	192,895	196,753	200,688	204,702	208,796
Total Cost	\$174,711	\$178,205	\$181,769	\$185,405	\$189,113	\$192,895	\$196,753	\$200,688	\$204,702	\$208,796
Ending Balance	\$225,865	\$221,855	\$214,274	\$203,042	\$188,079	\$169,304	\$146,634	\$119,983	\$89,266	\$54,392
Cash Flow	87,356	89,103	90,885	92,702	94,556	96,448	98,376	100,344	102,351	104,398
Over/Under	138,509	132,753	123,389	110,339	93,523	72,857	48,258	19,639	(13,085)	(50,005)
Developed Lot Rate	\$464.06	\$464.06	\$464.06	\$464.06	\$464.06	\$464.06	\$464.06	\$464.06	\$464.06	\$464.06
Undeveloped Lot Rate	\$139.22	\$139.22	\$139.22	\$139.22	\$139.22	\$139.22	\$139.22	\$139.22	\$139.22	\$139.22

Notes: (1) Interest is 0.4% of one-half of the previous year ending balance.

(2) 2% increase in maintenance cost each year due to inflation.

RESOLUTION NO. 2020-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 7

WHEREAS, the City's Landscape Maintenance District No. 7 (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500 *et seq.*) (the "Act") to fund the maintenance and servicing of certain public landscaping and appurtenant facilities in the City and

WHEREAS, in connection with the District, the City annually levies an assessment against real property; and

WHEREAS, the City Council desires to initiate proceedings to levy the assessment for Fiscal Year 2020-21 in connection with the District; and

WHEREAS, no increased assessments, new improvements nor substantial changes in existing improvements within the District are proposed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are true and correct.

SECTION 2. The City Council orders Willdan Financial Services, as assessment engineer, to prepare and file with the City Clerk a report on the assessment in connection with the District for Fiscal Year 2020-21. Such report shall include all information required by Section 22565 *et seq.* of the Act.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

APPROVED AND ADOPTED this 5th day of May 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-31 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk

RESOLUTION NO. 2020-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 7, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

WHEREAS, the City's Landscape Maintenance District No. 7 (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500 *et seq.*) (the "Act") to fund the maintenance and servicing of certain public landscaping and appurtenant facilities in the City; and

WHEREAS, in connection with the District, the City annually levies an assessment against real property; and

WHEREAS, by its Resolution No. 2020-31, adopted May 5, 2020, the City Council directed Willdan Financial, as assessment engineer (the "Engineer"), to prepare and file a report regarding the District; and

WHEREAS, the Engineer has filed said report, entitled "City of West Covina, Landscape Maintenance District No. 7, Fiscal Year 2020/2021 Engineer's Report" (the "Report") and the Report is on file and available for public inspection in the Office of the City Clerk and is incorporated herein by reference; and

WHEREAS, the City Council desires to continue with proceedings to levy the assessment in connection with the District for Fiscal Year 2020-21 as described in the Report.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Report is preliminarily approved.

SECTION 2. The City Council declares its intention to levy and collect assessments within the District for Fiscal Year 2020-21 and notes that:

- (a) The distinctive name of the District is the "City of West Covina Landscape Maintenance District No. 7."
- (b) The District is generally located the easterly part of the City of West Covina on the north-facing slopes of the San Jose Hills.
- (c) The existing and proposed improvements are generally described as to landscaping and irrigation in public open space areas within the boundaries of the District. No substantial changes are proposed to the nature of the improvements.

- (d) Reference is made to the Engineer's Report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the District.
- (e) The rate of this assessment is not proposed to increase from the rate levied in Fiscal Year 2019-20.

SECTION 3. A Public Hearing is set for Tuesday, June 2, 2020, at 7:00 p.m. in the City Council Chambers located at 1444 West Garvey Avenue South in the City of West Covina, which hearing may be conducted electronically if the City Council Chambers remain closed due to the COVID-19 pandemic, to take the testimony on the issue of whether or not the assessments should be approved.

SECTION 4. The City Clerk shall give notice of said Public Hearing in the time, form, and manner as required by law, including but not limited to publication of this resolution in accordance with Streets and Highways Code Sections 22552 and 22553.

SECTION 5. The City Council finds that the levy and collection of these assessments is statutorily exempt from the California Environmental Quality Act under § 15273 of the Guidelines, as none of the proceeds will be used for capital expenses, but will be used instead for operation and maintenance.

SECTION 6. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

APPROVED AND ADOPTED this 5th day of May 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-32 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

SUBJECT: CONSIDERATION OF RENEWAL OF THE CITYWIDE LIGHTING AND MAINTENANCE DISTRICT AND PRELIMINARY APPROVAL OF THE ENGINEER'S REPORT

RECOMMENDATION:

It is recommended that the City Council take the following actions:

1. Adopt the following resolution:

RESOLUTION NO. 2020-33 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH THE CITY'S CITYWIDE LIGHTING AND MAINTENANCE DISTRICT

2. Following adoption of Resolution No. 2020-33, adopt the following resolution:

RESOLUTION NO. 2020-34 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITYWIDE LIGHTING AND MAINTENANCE DISTRICT, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

BACKGROUND:

The Landscaping and Lighting Act of 1972 (California Streets and Highways Code section 22500 et seq.) (the "Act") specifies the procedures for renewal of landscape maintenance districts. The Citywide Lighting and Maintenance District was established in 1976. As the name implies, this district encompasses the entire City. Prior to Fiscal Year 1997-1998, the Citywide District funded a variety of public improvements and services which included: street tree maintenance, median maintenance, park maintenance, municipal pool maintenance, area lighting maintenance, traffic signal maintenance, traffic engineering, and street lighting engineering. Since the passage of Proposition 218 in November 1996 and the subsequent property owner approval in July 1997, the Citywide District assessment currently funds only those services that have been designated as a "Special Benefit", which is the maintenance of most of the street lights and street trees within the City.

The Citywide Lighting and Maintenance District funds the operation and maintenance of assessable (special benefit) street trees and street lighting. These funds are used for the operations and maintenance of street lights,

trimming of street trees, and removal and replacement of diseased street trees.

DISCUSSION:

The first step in the process is to adopt Resolution No. 2020-33, ordering the Engineer's Report.

The Engineer's Report, prepared by Willdan Financial Services, has been completed and includes plans and specifications for improvements, estimated costs, an assessment diagram, and assessment spread for the estimated costs, which is filed with the Office of the City Clerk. The report was prepared in accordance with the Act.

The City's General Fund finances a portion of the Citywide District through the City's payment of assessments on City-owned properties in the amount of about \$42,135. In addition, the Successor Agency of the City of West Covina is projected to pay an assessment amount of about \$451 to the Citywide District for the parcels owned by the former Redevelopment Agency. At this time, this is an enforceable obligation cost of the Successor Agency, and paid through the Recognized Obligation Payment Schedule (ROPS) funds.

Since the assessments for the Citywide Lighting and Maintenance District were approved in a mail ballot election in July 1997 in accordance with Proposition 218, the renewal for the Citywide District can be completed in accordance with the requirements of the Act, provided the assessment rates and/or the assessment methodology do not change. The voter-approved rates for the Citywide District included a provision for not more than a 2% annual increase based on the Consumer Price Index (CPI). The CPI for a one-year period from March 2019 to March 2020 for the Los Angeles, Long Beach, and Anaheim areas is 1.95%. Therefore, staff is proposing to increase rates at the max of 1.95%. The necessity for any increases has been evaluated as part of the Engineer's Report.

The next step in the renewal process is the preliminary approval of the Engineer's Report and adoption of the Resolution of Intention concerning the levy and collection of assessments for the District. Staff is recommending setting a public hearing date of June 16, 2020 as required in the Act. At the public hearing, the City Council will consider any written and oral comments regarding the level of assessments and proposed maintenance and capital improvement work within the district. The public hearing requires a public notice be posted and published in a locally circulated newspaper, but does not require notices be mailed to each resident. Upon the conclusion of the hearing, the City Council should adopt a resolution confirming the Engineer's Report and assessment levy either as proposed or as modified by the City Council.

Key point: Rate increases are currently capped at 2.0% annually and have not kept up with the rate of inflation over the past 15 years, which has led to reduced services and increased concerns by residents. Staff is suggesting that in the coming year the City conduct a full study of what a proper level of maintenance would cost and explore how to set the assessment rate accordingly. The study will take several months and if rates are to be increased it would require a Citywide Proposition 218 mail vote.

LEGAL REVIEW:

The City Attorney's Office has reviewed and approved the resolutions as to form.

OPTIONS:

The City Council has the following options:

1. Increase current assessment rates by 1.95%. This would generate an additional \$32,941 in street lights and street trees assessment. Staff is recommending this option.
2. Maintain the current assessment rates. Maintaining the rates at their current levels (0% increase) would deplete the reserves at a faster pace and require the General Fund to subsidize the district in future years.
3. Reduce the assessment rates. Citywide District reserves will be depleted at a faster pace requiring the City's General Fund to subsidize the district.
4. To not renew the district. If the City Council does not wish to continue the district and wishes to fund the district from the General Fund, the resolutions are not necessary.

Prepared by: Michael Ackerman, City Engineer

Fiscal Impact

FISCAL IMPACT:

For Fiscal Year 2020-2021, the Engineer's Report for the Citywide Lighting and Maintenance District proposes to use the voter approved adjustment to increase the assessment rates by 1.95% from their current levels, which would generate an additional \$32,941 in assessments. This is the amount of increase allowed under Proposition 218. The total projected income from the recommended rates is \$1,722,211. Including the, \$2,577 interest and \$1,288,368 balance from the previous year, the total funds available is \$3,013,156.

The proposed operating budget for the district is \$1,612,674. The 2020-2021 operating budget for the district includes an administration and overhead charge of \$78,111, personnel costs of \$108,625 maintenance contracts cost of \$321,177, property and liability insurance costs of \$22,370, utility costs of \$1,000,000, \$36,443 in-supplies, vehicles, maintenance and gas costs, and \$33,826 in engineering costs. The administration and overhead costs are derived from support services provided by various departments including: the City Manager's office, City Attorney's office, City Clerk's office, Finance Department, and Human Resources Department. Support services include but not limited to payroll, personnel recruitment, insurance claims, audits, budgets, and purchasing.

The reserves are projected to be approximately \$1,400,482 by the end of Fiscal Year 2020-2021. These reserves partially cover the cash flow, which is needed to pay monthly expenses while income is received twice a year. The amount necessary to avoid a net negative cash flow over the period of one year is \$806,337, which is approximately one-half of the proposed operating budget. The City's General Fund will be used to cover the temporary cash flow deficiencies and later reimbursed when district funds become available.

Since the City of West Covina is not exempt from assessments for this district, the City's total assessment is about \$42,658. The City pays this assessment using General Funds within the non-departmental operating budget.

There are no legal requirements or formal guidelines for the amount of reserves in an assessment district; however, at least 50% is required to cover cash flow. A reserve between 100% and 200% is recommended by staff to cover cash flow, future capital projects, emergencies, and as a benefit, it also provides interest income.

Attachments

Attachment No. 1 - 15 Year Rate History

Attachment No. 2 - Citywide Lighting and Maintenance Engineer's Report

Attachment No. 3 - 10 Year Fiscal Projection

Attachment No. 4 - Resolution No. 2020-33

Attachment No. 5 - Resolution No. 2020-34

CITY COUNCIL GOALS & OBJECTIVES: Enhance City Facilities and Infrastructure
Enhance the City Image and Effectiveness
Enhance City Programs and Activities

**West Covina
Citywide Lighting and Maintenance District
15 Rate History
For a Typical Single-Family Residential Property**

Fiscal Year	Assessment
2020-21	\$54.38
Proposed	
2019-20	\$53.34
2018-19	\$52.29
2017-18	\$52.29
2016-17	\$51.28
2015-16	\$50.41
2014-15	\$50.15
2013-14	\$49.66
2012-13	\$48.69
2011-12	\$47.73
2010-11	\$46.81
2009-10	\$45.94
2008-09	\$45.89
2007-08	\$44.98
2006-07	\$44.10



City of West Covina

Citywide Lighting & Maintenance District

FISCAL YEAR 2020/2021 ENGINEER'S REPORT

Intent Meeting: May 5, 2020
Public Hearing: June 16, 2020

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ENGINEER'S REPORT AFFIDAVIT

Citywide Lighting and Maintenance District

City of West Covina County of Los Angeles, State of California

This Report describes the District including the improvements, budgets, parcels and assessments to be levied for Fiscal Year 2020/2021 as they existed at the time of the passage of the Resolution of Intention. Reference is hereby made to the Los Angeles County Assessor's maps for a detailed description of the lines and dimensions of parcels within the District. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this _____ day of _____, 2020.

Willdan Financial Services
Assessment Engineer
On Behalf of the City of West Covina

By: _____

Chonney Gano, Project Manager
District Administration Services

By: _____

Richard Kopecky
R. C. E. # 16742

TABLE OF CONTENTS

OVERVIEW	1
PROPOSITION 218 COMPLIANCE	3
I. PLANS AND SPECIFICATIONS	4
A. DESCRIPTION OF WORK.....	4
B. IMPROVEMENTS AUTHORIZED BY THE 1972 ACT	5
C. DESCRIPTION OF IMPROVEMENTS AND SERVICES	6
II. METHOD OF APPORTIONMENT	7
A. PROPOSITION 218 BENEFIT ANALYSIS	7
B. BENEFIT ANALYSIS.....	8
C. ASSESSMENT METHODOLOGY.....	9
D. ASSESSMENT RANGE FORMULA.....	16
III. ESTIMATE OF COSTS	17
A. CAPITAL IMPROVEMENT PROJECT FUND	17
B. SUMMARY OF OPERATING COSTS.....	18
C. SUMMARY OF TOTAL COSTS	19
IV. BOUNDARY MAP	21
V. ASSESSMENT ROLL	22

OVERVIEW

The City of West Covina (“City”), annually levies and collects assessments in order to provide and maintain facilities, improvements and services within the Citywide Lighting and Maintenance District (“District”). The District was established in 1976 pursuant to the *Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code* (“1972 Act”). Prior to Fiscal Year (“FY”) 1997-98 the District funded a variety of public improvements and services which included: street tree maintenance, median maintenance, park maintenance, municipal pool maintenance, area lighting maintenance, traffic signal maintenance, traffic engineering, and street lighting engineering. Since the passage of Proposition 218 (“Proposition”) in November 1996 and the subsequent property owner approval in July 1997, the District assessment currently funds only those services that have been designated as a “Special Benefit”, which is the maintenance of most of the street lights and street trees within the City. These funds are used for the operations and maintenance of streetlights, trimming of street trees, and removal and replacement of diseased street trees.

The Engineer’s Report (“Report”) has been prepared pursuant to Chapter 1, Article 4 and Chapter 3 of the 1972 Act, and presented to the City Council for their consideration and approval of the proposed improvements and services to be provided within the District and the levy and collection of annual assessments for FY 2020/2021.

This Report describes the District, the improvements and the proposed assessments to be levied against properties in connection with the benefits the properties will receive from the maintenance and servicing of the District improvements for FY 2020/2021. The annual assessments to be levied on properties within the District provide a funding source for the continued operation and maintenance of local landscape improvements installed in connection with the development of properties within the District. Each fiscal year, the City establishes the District’s assessments based on an estimate of the costs to maintain, operate and service the landscape improvements and based upon available revenues including fund balances, City contributions and assessment limits. The costs of the improvements and the proposed annual assessments budgeted and assessed against properties within the District may include: the estimated expenditures for regular annual maintenance and repairs; incidental expenditures related to the operation and administration of the District; deficits or surpluses from prior years; revenues from other sources; and the collection of adequate funds for operational reserves or periodic expenditures including installments collected for long-term improvement projects. Each parcel is assessed proportionately for only those improvements, services and expenses for which the parcel will receive special benefit.

The word “parcel,” for the purposes of this Report, refers to an individual property assigned its own Assessor’s Parcel Number (“APN”) by the Los Angeles County (“County”) Assessor’s Office. The County Auditor/Controller uses Assessor’s Parcel Numbers and specific Fund Numbers to identify properties to be assessed on the tax roll for the special benefit assessments.

At a noticed annual Public Hearing, the City Council will accept all public comments and written protests regarding the District and the annual levy of assessments. Upon conclusion of the Public Hearing, the City Council will consider all public comments and review the Report. The City Council may order amendments to the Report or confirm the Report as submitted. Following final approval of the Report and confirmation of the assessments the Council will, by Resolution, order the improvements to be made and confirm the levy and collection of assessments pursuant to the 1972 Act. The assessments as approved will be submitted to the County Auditor/Controller to be included on the property tax roll for each parcel.

While the budgets outlined in this Report reflect the estimated costs necessary to fully and adequately provide for the maintenance and operation of the improvements within the District, many of these estimated costs and associated services cannot be funded by the current assessment revenues and contributions from the City. To fully fund the improvements, it may be necessary to increase assessment revenues by a percentage greater than the currently approved inflationary adjustment, which is no greater than the percentage increase of the Los Angeles-Long Beach-Anaheim Consumer Price Index (“CPI”) as published by the Department of Labor’s Bureau of Labor Statistics or 2% whichever is less. (As of January 2018, the Los Angeles-Riverside-Orange County Consumer Price Index region name changed to Los-Angeles-Long Beach-Anaheim Consumer Price Index). This will require the support of the property owners for new or increased assessments through a ballot proceeding conducted under the provisions of the California Constitution Article XIID.

In FY 2017-18, the City conducted a property owner protest ballot proceeding for a proposed Maximum Assessment increase of 12%. Based on the results of the protest ballot, the City Council declined to adopt the new Maximum Assessment increase.

As required by the 1972 Act, this Engineer’s Report describes the improvements to be operated, maintained and serviced by the District, an estimated budget for the District improvements, and the proposed assessments to be levied upon each assessable lot or parcel within the District for FY 2020/2021.

This Report consists of five (5) parts:

Part I

Plans and Specifications: A general description of the District and the improvements for which parcels are assessed. The proposed assessments as outlined in this Report are based on the improvements that provide a special benefit to the properties within the District. The plans and specifications contained in this Report generally describe the nature, location and extent of the improvements.

Part II

Method of Apportionment: A description of how the proportionate amount of the assessments is to be charged in proportion to the benefits received by each lot or parcel within the boundaries of the District.

Part III

Estimate of Costs: An estimate of the annual costs to properly operate, maintain, and service the landscape improvements and appurtenant facilities. This budget includes an estimate of the maintenance costs and incidental expenses including, but not limited to: labor, materials, equipment and administration expenses as well as the collection of appropriate funding necessary to properly support the improvements. Not all services and costs identified in these budgets can be supported by the current assessment revenues and City contributions, and as such, City staff shall make the determination of which services and activities shall be provided based on available revenues.

Part IV

Boundary Map: A diagram showing the boundaries of the District is provided in this Report and includes all parcels determined to receive special benefits from the improvements. Parcel identification, the lines and dimensions of each lot, parcel and subdivision of land within the District are shown on the Los Angeles County Assessor's Parcel Maps and shall include any subsequent lot line adjustments or parcel changes therein. Reference is hereby made to the Los Angeles County Assessor's Parcel Maps for a detailed description of the lines and dimensions of each lot and parcel of land within the District. A diagram showing the overall boundaries of the District is on file with the City Clerk and the Office of the City Engineer, and by reference is made part of this Report.

Part V

Assessment Roll: A listing of the assessment amount associated with each parcel within the District. The assessments presented herein are unchanged from the previous fiscal year.

PROPOSITION 218 COMPLIANCE

On November 5, 1996, California voters approved Proposition 218. This Proposition amended the California Constitution and was the latest in a series of initiatives reducing the revenue-raising discretion of California local governments. The provisions of the Proposition, now California Constitution Articles XIII C and XIII D, can be summarized in four general areas:

1. Strengthens the general and special tax provisions of Proposition 13 and Proposition 62.
2. Extends the initiative process to all local taxes, assessments, fees, and charges.
3. Adds substantive and procedural requirements to assessments.

4. Adds substantive and procedural requirements to property-related fees and charges.

Proposition 218 required that beginning July 1, 1997, all new and existing assessments (with some exceptions) must conform to new substantive and procedural requirements. However, certain assessments are exempted from these requirements until they are increased.

Generally, these exemptions include:

- (a) Assessments used exclusively to fund sidewalks, streets, sewers, water, flood control, drainage systems, or vector control.
- (b) Assessments imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed.
- (c) Assessments used exclusively for bond repayments, the cessation of which would violate the Contract Impairment Clause of the U.S. Constitution.
- (d) Assessments previously approved by a majority of voters.

The assessments for the District were approved in a mailed ballot election in July 1997 in accordance with the Article XIID substantive and procedural requirements. Any subsequent increases in the assessments above those initially approved by the mailed election will be subject to the procedures and approval process of Section 4 of Article XIID of the California Constitution.

I. PLANS AND SPECIFICATIONS

A. DESCRIPTION OF WORK

The existing facilities to be maintained and serviced include street lighting facilities and street trees.

The District will fund the costs in connection with the district maintenance and servicing including, but not limited to, personnel, electrical energy, water, materials, contracting services, and other expenses necessary for the satisfactory operation of these facilities. The facilities are described as follows:

Landscaping and Appurtenant Facilities

Facilities include but are not limited to: trees, irrigation system, hardscape, fixtures, sidewalk maintenance resulting from landscape growth and appurtenant facilities, in public right-of-way, parkways, and dedicated easements within the boundaries of the District.

Lighting and Appurtenant Facilities

Facilities include but are not limited to: poles, fixtures, bulbs, conduits, conductors, equipment including guys, anchors, posts and pedestals, metering

devices and appurtenant facilities as required to provide lighting in the public right-of-way and dedicated easements within the boundaries of the District.

The public lighting system shall be maintained to provide adequate illumination. Electricity for streetlights shall be furnished by the Southern California Edison Company, and it shall be adequate for the intended purpose. Rates for power shall be those authorized by the California Public Utilities Commission.

“Maintenance” means the furnishing of services and materials for the ordinary and usual operation, maintenance and servicing of the landscaping, public lighting facilities and appurtenant facilities, including repair, removal or replacement of all or part of any of the landscaping, public lighting facilities or appurtenant facilities; providing for the life, growth, health, and beauty of the landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, and treating for disease or injury; the removal of trimmings, rubbish, debris, and other solid waste.

“Servicing” means the furnishing of water for the irrigation of landscaping and the maintenance of any of the public lighting facilities and furnishing of electrical energy for the public lighting facilities or for the lighting or operation of landscaping or appurtenant facilities.

B. IMPROVEMENTS AUTHORIZED BY THE 1972 ACT

As applicable or may be applicable to this proposed District, the 1972 Act defines improvements to mean one or any combination of the following:

The installation or planting of landscaping.

The installation or construction of statuary, fountains, and other ornamental structures and facilities.

The installation or construction of public lighting facilities.

The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.

The maintenance or servicing, or both, of any of the foregoing.

The acquisition of any existing improvement otherwise authorized pursuant to this section.

Incidental expenses associated with the improvements including, but not limited to:

The cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment;

The costs of printing, advertising, and the publishing, posting and mailing of notices;

Compensation payable to the County for collection of assessments;

Compensation of any engineer or attorney employed to render services;

Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements;

Any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.

Costs associated with any elections held for the approval of a new or increased assessment.

The 1972 Act defines "Maintain" or "maintenance" to mean furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including:

Repair, removal, or replacement of all or any part of any improvement.

Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.

The removal of trimmings, rubbish, debris, and other solid waste.

The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

C. DESCRIPTION OF IMPROVEMENTS AND SERVICES

The following outlines the various improvements associated with the properties and developments throughout the District. The detailed plans and specifications of the District improvements are on file in the office of the City Public Works Department and by reference are made part of this Report.

There are currently no ongoing Capital Improvement Projects:

II. METHOD OF APPORTIONMENT

A. PROPOSITION 218 BENEFIT ANALYSIS

The costs of the proposed improvements have been identified and allocated to properties within the District based on special benefit. The improvements provided by this District and for which properties are assessed are local public landscape improvements and related amenities that were installed in connection with the development of the properties or would otherwise be required for the development of properties within each respective Zone of the District. The assessments and method of apportionment is based on the premise that these improvements would otherwise not have been required without the development of those parcels within the District.

Article XIID Section 2(d) defines District as follows:

“District means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service”;

Article XIID Section 2(i) defines Special Benefit as follows:

“Special benefit” means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute “special benefit.”

Article XIID Section 4(a) defines proportional special benefit assessments as follows:

“An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel.” The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the construction, maintenance, and servicing of public lights, landscaping and appurtenant facilities. The 1972 Act further requires that the cost of these improvements be levied according to benefit rather than assessed value”.

“The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.”

Pursuant to Section 22574 of the 1972 Act permits the designation of zones of benefits within any individual assessment district if "by reason of variation in the nature, location, and extent of the improvements, the various areas will receive different degrees of benefit from the improvements." Thus, the 1972 Act requires the levy of a true "assessment" rather than a "special tax."

In addition, Proposition 218 the "Right to Vote on Taxes Act" which was approved on the November 1996 Statewide Ballot, requires that a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that

parcel. Prop. 218 provides that only special benefits are assessable and the City must separate the general benefits from the special benefits.

The formula used for calculating assessments in this District reflects the composition of the parcels, and the improvements and services provided in order to fairly apportion the costs based on estimated benefit to each parcel.

B. BENEFIT ANALYSIS

The assessment is proposed to be levied to defray the cost of the operation, servicing, and maintenance of street trees and street lighting and appurtenant facilities, including but not limited to, personnel, electrical energy, utilities such as water, materials, contracting services, and other items necessary for the satisfactory operation of these services.

Street Lighting Benefit:

Proper maintenance and operation of the street lighting system benefits in proximity adjacent to the lights by providing security, safety and community character, and vitality. The amount of benefit received will vary with the different land use on the property. There are three (3) categories from which the total special benefit of a parcel is derived:

1. **Security and Safety Benefit.** The prevention of crime, the alleviation of the fear of crime, and the prevention of traffic accidents in a community.
2. **Community Character and Vitality Benefit.** The promotion of social interaction, promotion of business and industry, and the contribution to a positive night time visual image for the community.
3. **Lighting Intensity Benefit.** As the lighting levels increase, so do the benefits associated with the lighting. Lighting Standards usually require approximately twice the level of lighting in commercial/industrial areas than in residential areas.

Parcels, which are located on streets with streetlights, receive a special lighting benefit. Parcels which are located on private streets receive a substantially reduced benefit from local lighting, parcel which do not have any local streetlights receive no benefit from street lighting.

Lighting at the street intersection, which is defined as safety lighting, is considered to be the minimum lighting requirement for vehicular safety; therefore, safety lighting represents the general benefit portion of street lighting. Additionally, lights, which are on arterials of the City, which do not have parcels fronting on them, are considered a general benefit. Those general benefit portions of the City's lighting budget will not be assessed.

Benefit Zones. Most parcels within the City front on streets with streetlights and therefore receive a direct lighting benefit. However, there are some areas in the City, which have a higher level of lighting and these have been designated as additional Benefit Zones.

Zone A. The Civic Center and Plaza at West Covina areas receive a higher level of street lighting.

Zone B. The properties along Glendora Avenue from Walnut Creek Parkway to the I-10 Freeway receive a higher level of street lighting than Zone A.

Those parcels which also have public lighting in adjacent alleyways receive an equal amount of benefit for the alley lights as for the streetlights, therefore, these parcels are assessed two times the benefit of the basic local lighting. The parcels that front streets without streetlights do not receive a local lighting benefit and therefore are not assessed.

Street Trees:

Trees, landscaping, hardscaping and appurtenant facilities, if well maintained, provide beautification, shade and enhancement of the desirability of the surroundings.

The City maintains street trees throughout the City. The trees are located within the public right-of-way and provide aesthetically pleasing environment, shade, beautification, and according to some authorities' air purification and sound attenuation. These positive attributes increase the desirability of properties located on streets that have trees on them.

More importantly, proper maintenance of these facilities, especially routine trimming of street trees and removal/replacement of deceased trees, is essential to the safety of the users of adjacent properties.

Parcels that are located on streets which do not have trees do not benefit and are not assessed. Street trees on arterials of the City that do not have parcels fronting on them are considered a general benefit. There are approximately seven hundred and eighty-four (784) such trees out of approximately twenty-seven thousand forty-eight (27,048) street trees in the City, or 2.90%. Therefore, 2.90% of the City street tree budget will be funded through the City's General Fund account.

C. ASSESSMENT METHODOLOGY

The methods of apportionment utilized for the District calculates the receipt of special benefit from the respective improvements based on the actual or proposed land use of the parcels. The special benefit received by each lot or parcel is equated to the overall land use of the parcel based on the parcel's actual land use or proposed planned development and is reliant upon the special benefit received from the improvements planned or existing within the District.

To identify and determine the special benefit to be received by each parcel, it is necessary to consider the entire scope of the improvements. The costs associated with the improvements shall be fairly distributed among the parcels based upon the special benefit received by each parcel. Additionally, in compliance with Section 4 of Article XIID, each parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred to that parcel. The benefit formula used to determine the assessment obligation is therefore based upon both the improvements that benefit the parcels of the District as well as the proposed land use of each property as compared to other parcels that benefit from those specific improvements.

Equivalent Dwelling Units:

Since the assessments will be levied against parcels of property as shown on the tax rolls, the final charges must be assigned by Assessor's Parcel Number. If assessments were to be spread just by parcel, not considering land use or parcel size, a single-family parcel would be paying the same as a fifty (50) unit apartment parcel or a large commercial establishment in a similar zone and this would not be equitable and would not satisfy the Prop. 218 requirements.

The single-family residential parcel has been selected as the basic unit for calculation of assessment since it represents 80% of the parcels in the City. Therefore, the single-family residential parcel is defined as an Equivalent Dwelling Unit ("EDU"). A methodology has been developed to calculate the EDUs for other residential land uses and for non-residential parcels. Every land-use is converted to EDUs: parcels containing apartments are converted to EDUs based on the number of dwelling units on each parcel of land; commercial and industrial parcels are converted based on the lot size of each parcel of land.

The EDU method is usually seen as more appropriate and equitable for landscaping and lighting districts, as the benefit to each parcel from the improvements being maintained extends beyond the front of their property. Therefore, assessments are apportioned as a function of land-use type and whether a property is developed or not. This may be more clearly shown by taking an example of condominiums. Under the current method of assessment, the frontage along the whole condominium complex is measured, and then is divided by the number of units within the complex. This spreads a relatively small assessment to each of the condominiums, which is not commensurate with the benefit each one of them receives.

EDU Application:

Single-Family Residential - The single-family residential parcel has been selected as the basic unit for calculation of the benefit assessment. The basic unit shall be called an Equivalent Dwelling Unit (EDU). Parcels zoned for single-family residential uses are assessed **1 EDU**.

Multi-Family Residential - Multiple residential (including condominiums) land use equivalencies are determined based on the number of dwelling units on each parcel. Due to population density and size of structure relative to the typical single-family residence, each dwelling unit defined as multi-family residential, including condominiums, would be **0.75 EDU**. Benefits to a multi-family residential property do not increase proportionately as the number of units increase. Therefore, the population per unit decreases as the residential land use density increases and there is a corresponding reduction in benefit to a parcel. Also, as the number of dwelling units increase, the average value per rental unit decreases. Therefore, there is a reduced benefit to a parcel as the number of dwelling units increase. By decreasing the equivalency as the number of units increase, a reasonable benefit assessment is achieved. Therefore, the equivalency is reduced to **0.5 EDU** per dwelling unit, for five (5) through fifteen (15) dwelling units (as parcels with 5 to 15 units are considered "high medium density" as opposed to the "low density" of duplexes, triplexes and fourplexes), and the equivalency is reduced to **0.25 EDU** per dwelling unit for more than 15 units, which are considered to be "high density". Fifteen units are established as the limit of the "high medium density" category as State law (California Title 25, Section 42) requires that apartment complexes with 16 or more dwelling units have a manager located on the premises, which is an indication of "high density".

Mobile Homes - Mobile home parks, and mobile homes located within mobile home parks, are converted to EDUs based on the population density and size of structure relative to a single-family residence. Therefore, mobile home parks and mobile homes located within mobile home parks would be assessed **0.5 EDU** per mobile home. No decrease would be applied to this factor, as mobile homes are all separate dwellings with no common walls.

Non-Residential - In converting improved non-residential properties to EDUs, the factor used is the City of West Covina's average density for single-family residential areas, which are five (5) dwelling units per acre. All properties developed for non-residential uses are therefore assigned **5 EDUs** per acre for the first five (5) acres. It is our experience, based upon a review of large non-residential parcels, that the utilization of that portion of non-residential property greater than 5 acres more closely resembles that of vacant land as it is typically undeveloped. Therefore, after the first 5 acres, each additional acre will be charged 25% of 5 EDUs which results in **1.25 EDUs** per acre, similar to vacant land as described below.

Vacant Property:

Vacant property is described, as parcels with no improved structures. These properties receive benefits based on their land, as this is the basis of their value. Based on the opinions of professional appraisers, appraising current market property values for real estate in Southern California, the land value portion of the property typically ranges from 20 to 30 percent of the property's total value. Additionally, the utilization of vacant property is significantly less than improved property, and vacant

property has a traffic generation rate of 0. Therefore, it is recommended that vacant property be assessed at the rate of 25 percent of improved property.

Vacant Residential - Parcels defined as residential parcels, which do not have structures on the parcels, are assessed 25% of the parcel with a single-family dwelling thereon. The parcel will be assessed **0.25 EDU** per parcel.

Vacant Non-Residential - Parcels defined as parcels which are not residential parcels and which do not have structures on the parcel area assessed based upon the acreage of the parcel. The parcels will be assessed at the rate of 25% of the developed non-residential properties, or **1.25 EDU** per acre or any portion thereof, with a minimum of **0.25 EDU** per parcel and up to a maximum of **5 acres (6.25 EDUs)** per parcel, as parcels over five (5) acres may be considered as open space, and no longer receive any benefit.

Public Property - Article XIID of the California Constitution requires that all benefiting public properties be assessed for their fair share of the benefit. Public property, which is developed and used for residential or business purposes will be assessed the same as private property with the same use. Schools will be assessed as Commercial/Industrial uses. Parks will be assessed as vacant property.

Exempt - Excepted from the assessment would be the areas of public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, public easements, and right-of-way, public greenbelts, parkways and that portion of property that is not developed and used for business purposes similar to private commercial, industrial and institutional activities. Also, excepted from assessments would be utility right-of-way, common areas (such as in condominium complexes), landlocked parcels and small parcels vacated by the City as these parcels have little or no value and therefore do not benefit from the improvements.

The land use classification for each parcel has been based on the Los Angeles County Assessor's Roll.

LAND USE CODES AND EQUIVALENT DWELLING UNITS

Land Use Codes	Total EDU		
Single-Family Residential (SFR)	1.0 per unit		
Condominiums	0.75 per unit		
Multi-Family Residential	0.75 per unit for the first 4 units	0.5 per unit over 4 and up to 15 units	0.25 per unit over 15 units
Mobile Home Parks	0.5 per DU		
Commercial/Industrial and Other Non-Residential (including Schools)	5.0 per acre for the first 5 acres	1.25 per acre over 5 acres	
Vacant SFR	0.25 per parcel		
Vacant (25% of Non-Residence EDUs) (includes Parks)	1.25 per acre (5 acre maximum)		

Benefit Factors:

There are varying levels of benefit to property from the operation and maintenance of street lighting and street trees based on the different types of property use. Because the benefit to the property varies depending on the type of land use of the property, a Benefit Factor is applied to the EDU formula for each property for each type of improvement to obtain Benefit Units for each Property.

$$(\text{Equivalent Dwelling Unit}) \times (\text{Benefit Factor}) = \text{Benefit Units}$$

The following table outlines the Benefit Factors for street lighting:

STREET LIGHTING BENEFIT FACTORS

	Residential	Commercial/Industrial
Security & Safety	1	1
Community Character & Vitality	1	1
Lighting Intensity	1	2
Total	3	4

Schools will receive a residential benefit factor, as they tend to be in residential areas and benefit similarly to residential property. Parks are assessed as vacant land and receive a non-residential benefit factor.

Benefit Units:

The budget for basic lighting is \$1,150,804. The proposed applied basic lighting assessment rate is estimated at \$12.42 per BU, which includes the costs of basic lighting and associated capital improvements, contribution to reserves, and contingency totaling \$1,189,578. Accordingly, a single-family residential parcel's assessment would equal 3 BU x \$12.42/BU = \$37.26. The Following table provides a preliminary summary of Street Lighting Benefit Units (BU's) for the City.

STREET LIGHTING BENEFIT UNITS

Land Use	Parcels	Dwellings	Acres	EDU's	Benefit Factor	Benefit Units
Single Family Residential	20,733	20,733		20,733	3	62,199.00
Condominium	3,539	3,539		2,654	3	7,962.75
Multi-Family Residential	493	8,106		3,086	3	9,258.00
Mobile Home Parks	2	265		133	3	397.50
Commercial	613		741.92	3,154	4	12,616.78
Vacant SFR	132		52.54	33	3	99.00
Vacant Non-SFR ⁽¹⁾	411		1,626.48	812	4	3,246.20
Totals	25,923	32,643	2,420.95	30,604.49		95,779.22

(1) Government properties are assessed as Vacant Non-SFR land use.
 Note: Zones A & B have different benefit factors. See following tables.

Lighting Benefit Zone A:

The budget for Zone A lighting is \$53,773. The proposed applied preliminary basic lighting assessment rate is estimated at \$37.74 per BU, which includes the costs of Zone A lighting and associated capital improvements, contribution to reserves, and contingency totaling \$48,535. The following table shows the preliminary summary of the BUs in Zone A.

ZONE A BENEFIT UNITS

Land Use	Parcels	Acreage	EDU's	Benefit Factor	Benefit Units
Commercial	40	67.38	273.70	4	1,094.81
Vacant Non-SFR	20	53.14	47.81	4	191.24
Totals	60	120.52	321.51		1,286.05

Lighting Benefit Zone B:

The budget for Zone B lighting is \$17,423 and is additional to the budget for Zone A. The proposed applied preliminary basic lighting assessment rate is estimated at \$21.99 per BU plus \$37.74 per BU for Zone A, for a total applied assessment rate of \$59.73 per BU, which includes the costs lighting and associated capital improvements, contribution from reserves, and contingency totaling \$8,017. The following table shows the preliminary summary of the BUs in Zone B.

ZONE B BENEFIT UNITS					
Land Use	Parcels	Acreage	EDU's	Benefit Factor	Benefit Units
Commercial	23	6.07	30.37	4	121.46
Vacant Non-SFR	4	2.55	3.19	4	12.76
Totals	27	8.62	33.55		134.22

No additional factors have been assigned for street trees; therefore, the Benefit Unit factors are the same as the EDU factors for each land use.

Street Tree Benefit:

The total budget for Street Trees is \$390,674. The proposed applied preliminary assessment rate is estimated at \$17.13 per BU, which includes the costs of street tree maintenance and associated capital improvements, contribution to reserves, and contingency totaling \$425,670. A single-family residential parcel's assessment would be equal to 1 BU x \$17.13/BU = \$17.13. The following table provides a preliminary summary of Street Tree Benefit Units (BUs) for the City.

STREET TREE BENEFIT UNITS						
Land Use	Parcels	Dwellings	Acres	EDU's	Benefit Factor	Benefit Units
Single Family Residential	17,765	17,765		17,765.00	1	17,765.00
Condominium	1,299	1,299		974.25	1	974.25
Multi-Family Residential	242	6,888		2,404.25	1	2,404.25
Mobile Home Parks	1	108		54.00	1	54.00
Commercial	600		681.68	2,981.60	1	2,981.60
Vacant SFR	120		46.76	30.00	1	30.00
Vacant Non-SFR (including Parks)	289		1,475.38	643.74	1	643.74
Totals	20,316	26,060	2,203.82	24,852.84		24,852.84

Assessment Rate Summary:

The following table summarizes the Applied and Maximum Assessment rates for parcels in each of the zones of benefits:

ASSESSMENT RATE SUMMARY

Benefit Category	Applied Rate Per Benefit Unit*	Maximum Rate Per Benefit Unit
Basic Local Lighting	\$12.42	\$12.67
Light Zone A	\$37.74	\$38.49
Light Zone B	\$59.73	\$60.92
Street Tree Benefit	\$17.13	\$17.47

*Note: City will apply the Applied Rate per benefit unit.

D. ASSESSMENT RANGE FORMULA

Any new or increased assessment requires certain noticing and meeting requirements by law. Prior to the passage of Proposition 218 (California Constitution Articles XIIC and XIID), legislative changes in the Brown Act defined a "new or increased assessment" to exclude certain conditions. These conditions included "any assessment that does not exceed an assessment formula or range of assessments previously adopted by the agency or approved by the voters in the area where the assessment is imposed." This definition and conditions were later confirmed through Senate Bill 919 (the Proposition 218 implementing legislation).

The purpose of establishing an assessment range formula is to provide for reasonable increases and inflationary adjustment to annual assessments without requiring costly noticing and mailing procedures, which could add to the District costs and assessments. As part of the District formation, balloting of property owners is required pursuant to the Article XIID Section 4. The property owner ballots include an Assessment to be approved, as well as the approval of an assessment range formula.

The Maximum Assessment is equal to the initial Assessment approved by property owners adjusted annually by the percentage increase of the Local Consumer Price Index ("CPI") for Los Angeles-Long Beach-Anaheim for All Urban Consumers from March to March up to 2%. As of January 2018, the Los Angeles-Riverside-Orange County Consumer Price Index region name changed to Los-Angeles-Long Beach-Anaheim Consumer Price Index. Each Fiscal Year, the Maximum Assessment will be recalculated, and a new Maximum Assessment established. For Fiscal Year 2020/2021, the percentage difference is 1.95%.

The Maximum Assessment is adjusted annually and is calculated independent of the annual budgets and proposed assessments established for each Zone of the District. Any proposed annual assessment (rate per EBU) less than or equal to this Maximum Assessment (for each Zone) is not considered an increased assessment, even if the proposed assessment is much greater than the assessment applied in the prior Fiscal Year.

III. ESTIMATE OF COSTS

The total estimate of costs for maintenance of the proposed improvements for FY 2020/2021, as defined under Section 22569 of the 1972 Act, are those as hereinafter set forth. Said cost estimates include the total District costs for constructing or installing any proposed improvements and for maintenance and servicing the existing improvements including incidental expenses; the amount of any surplus or deficit in the maintenance fund to be carried over from the previous year; any annual installments to be collected over more than a single year; as well as the amount of any contributions to be made from any other sources.

A. CAPITAL IMPROVEMENT PROJECT FUND

For FY 2020/2021, there are no planned capital improvements.

B. SUMMARY OF OPERATING COSTS

Citywide Lighting and Maintenance District Fiscal Year 2020-2021 Estimated Operating Costs		
Direct Maintenance		Totals*
<i>Personnel Services</i>		
Full Time Salaries & Benefits	\$107,608	
Overtime	1,017	
Subtotal		\$108,625
<i>Maintenance and Services</i>		
Maintenance Contracts	\$321,177	
Utilities	1,000,000	
Supplies, Vehicle Maintenance, and Gas	36,443	
Property & Liability Insurance	22,370	
Subtotal		\$1,379,990
Total Direct Maintenance		\$1,488,615
Engineering & Incidentals		
Full Time Salaries & Benefits	\$33,826	
Subtotal		\$33,826
<i>Maintenance and Services</i>		
Consultant Services	\$10,767	
Service Contracts	0	
Supplies, Vehicle Maintenance, and Gas	1,355	
Administration and Overhead	78,111	
Subtotal		\$90,233
Total Engineering:		\$124,059
Total Operating Budget		\$1,612,674

Note: Adjustments for budget to equal assessment amount.

*Totals may not foot due to rounding.

C. SUMMARY OF TOTAL COSTS

The City's budget for the operation and services costs detail the estimated costs and fund balances for FY 2020/2021 as available at the time of preparation of this Report. The 1972 Act provides that the total cost can be recovered in the assessment spread including incidental expenses. The latter can include engineering fees, legal fees, printing, mailing, postage, publishing, and all other related costs identified with the district proceedings.

The 1972 Act requires that a special fund be set-up for the revenue and expenditures of the district. Funds raised by assessment shall be used only for the purpose as stated herein. A contribution to the District by the City may be made to reduce assessments, as the City Council deems appropriate. Any balance or deficit remaining on July 1st must be carried over to the next fiscal year.

**City of West Covina
Citywide Lighting and Maintenance District
Fiscal Year 2020-2021
Estimated Costs**

Expenditures

Direct Costs		Totals*
Lighting		
Direct Lighting	\$1,150,804	
Zone A	53,773	
Zone B	17,423	
Subtotal		\$1,222,000
 Street Lights		
Direct Street Trees	390,674	
Subtotal		390,674
 Total Operating Budget		 \$1,612,674
 Capital Improvement ⁽¹⁾		 0
 Total Operating and Capital Budget		 \$1,612,674
 Contingency and Reserves		
Cash Flow Reserves	806,337	
Contingency	594,145	
Total Contingency and Reserves		\$1,400,482

Total District Expenditures	\$3,013,156
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Revenues

Assessment Income (Total Balance to Levy)	\$1,722,211	
Interest	2,577	
Total Projected Revenue		\$1,724,788
Projected Fund Balance (6/30/20)		1,288,368

Total Funds Available	\$3,013,156
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(1) See Capital Project Fund Section III. A.

Note: Adjustments for budget to equal assessment amount.

*Totals may not foot due to rounding.

IV. BOUNDARY MAP

A diagram showing the exterior boundaries of the District, boundaries of any zone within the District and the lines and dimension of each lot or parcel of land within the district is on file in the Office of the City Engineer.

V. ASSESSMENT ROLL

Parcel identification for each lot or parcel within the District shall be the parcel as shown on the Los Angeles County Secured Roll for the year in which this Report is prepared and reflective of the Assessor's Parcel Maps. A listing of the proposed lots and parcels to be assessed within this District along with the assessment amounts shall be submitted to the City Clerk, under a separate cover, and by reference is made part of this Report.

West Covina Citywide Lighting and Maintenance District
10 Year Existing Plus 1.95% CPI Projected Fiscal Projection

Percent Increase	1.95%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Fiscal Year	20-21	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30
Assessment Income	\$1,722,211	\$1,722,211	\$1,722,211	\$1,722,211	\$1,722,211	\$1,722,211	\$1,722,211	\$1,722,211	\$1,722,211	\$1,722,211
Interest (1)	2,577	2,801	2,993	3,154	3,281	3,376	3,437	3,465	3,458	3,417
Total Revenues	\$1,724,788	\$1,725,012	\$1,725,205	\$1,725,365	\$1,725,492	\$1,725,587	\$1,725,648	\$1,725,676	\$1,725,669	\$1,725,628
Prior Year Balance	1,288,368	1,400,482	1,496,693	1,576,809	1,640,634	1,687,972	1,718,622	1,732,385	1,729,056	1,708,431
Total Funding	\$3,013,156	\$3,125,494	\$3,221,898	\$3,302,174	\$3,366,127	\$3,413,559	\$3,444,271	\$3,458,061	\$3,454,725	\$3,434,059
Maintenance Costs (2)	1,612,674	1,628,801	1,645,089	1,661,540	1,678,155	1,694,937	1,711,886	1,729,005	1,746,295	1,763,758
Total Cost	\$1,612,674	\$1,628,801	\$1,645,089	\$1,661,540	\$1,678,155	\$1,694,937	\$1,711,886	\$1,729,005	\$1,746,295	\$1,763,758
Ending Balance	\$1,400,482	\$1,496,693	\$1,576,809	\$1,640,634	\$1,687,972	\$1,718,622	\$1,732,385	\$1,729,056	\$1,708,431	\$1,670,301
Cash Flow	806,337	814,400	822,544	830,770	839,078	847,468	855,943	864,502	873,147	881,879
Over/Under	594,145	682,293	754,265	809,865	848,894	871,154	876,442	864,554	835,283	788,422
Typical Assessment for SFR ⁽³⁾	\$54.38	\$54.38	\$54.38	\$54.38	\$54.38	\$54.38	\$54.38	\$54.38	\$54.38	\$54.38

Notes: (1) Interest is 0.4% of one-half of the previous year ending balance.

(2) 1% increase in maintenance cost each year due to inflation.

(3) Previously approved maximum highest rate of \$54.38, may not be increased further without vote.

RESOLUTION NO. 2020-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2020-21 ASSESSMENT TO BE LEVIED IN CONNECTION WITH THE CITY'S CITYWIDE LIGHTING AND MAINTENANCE DISTRICT

WHEREAS, the City's Citywide Lighting and Landscaping District (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500 *et seq.*) (the "Act") to fund the maintenance and servicing of certain public street lighting and street trees throughout the City and

WHEREAS, in connection with the District, the City annually levies an assessment against real property; and

WHEREAS, the City Council desires to initiate proceedings to levy the assessment for Fiscal Year 2020-21 in connection with the District; and

WHEREAS, no increased assessments, new improvements nor substantial changes in existing improvements within the District are proposed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are true and correct.

SECTION 2. The City Council orders Willdan Financial Services, as assessment engineer, to prepare and file with the City Clerk a report on the assessment in connection with the District for Fiscal Year 2020-21. Such report shall include all information required by Section 22565 *et seq.* of the Act.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

APPROVED AND ADOPTED this 5th day of May 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-33 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk

RESOLUTION NO. 2020-34

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITYWIDE LIGHTING AND MAINTENANCE DISTRICT, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2020-21 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS

WHEREAS, the City's Citywide Lighting and Maintenance District (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500 *et seq.*) (the "Act") to fund the maintenance and servicing of certain public street lighting and street trees in the City; and

WHEREAS, in connection with the District, the City annually levies an assessment against real property; and

WHEREAS, by its Resolution No. 2020-33, adopted May 5, 2020, the City Council directed Willdan Financial, as assessment engineer (the "Engineer"), to prepare and file a report regarding the District; and

WHEREAS, the Engineer has filed said report, entitled "City of West Covina, Citywide Lighting & Maintenance District, Fiscal Year 2020/2021 Engineer's Report" (the "Report") and the Report is on file and available for public inspection in the Office of the City Clerk and is incorporated herein by reference; and

WHEREAS, the City Council desires to continue with proceedings to levy the assessment in connection with the District for Fiscal Year 2020-21 as described in the Report.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Report is preliminarily approved.

SECTION 2. The City Council declares its intention to levy and collect assessments within the District for Fiscal Year 2020-21 and notes that:

- (a) The distinctive name of the District is the "City of West Covina Citywide Lighting and Maintenance District."
- (b) The boundaries of the District are the same as the boundaries of the City.
- (c) The existing and proposed improvements are generally described as street lights, street trees, and appurtenant facilities throughout the City. No substantial changes are proposed to the nature of the improvements.

- (d) Reference is made to the Engineer's Report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the District.
- (e) The rate of the assessment is proposed to adjust upwards by 1.95% from the rate levied in Fiscal Year 2019-20. Such adjustment is made according to a schedule of adjustments approved by property owners in a mail ballot proceeding pursuant to Article XIII D of the California Constitution and, therefore, does not constitute an "increase" requiring additional mail ballot proceedings.

SECTION 3. A Public Hearing is set for Tuesday, June 16, 2020, at 7:00 p.m. in the City Council Chambers located at 1444 West Garvey Avenue South in the City of West Covina, which hearing may be conducted electronically if the City Council Chambers remain closed due to the COVID-19 pandemic, to take the testimony on the issue of whether or not the assessments should be approved.

SECTION 4. The City Clerk shall give notice of said Public Hearing in the time, form, and manner as required by law, including but not limited to publication of this resolution in accordance with Streets and Highways Code Sections 22552 and 22553.

SECTION 5. The City Council finds that the levy and collection of these assessments is statutorily exempt from the California Environmental Quality Act under § 15273 of the Guidelines, as none of the proceeds will be used for capital expenses, but will be used instead for operation and maintenance.

SECTION 6. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

APPROVED AND ADOPTED this 5th day of May 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-34 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

**SUBJECT: CONSIDERATION OF WEST COVINA CITYWIDE SEWER SERVICE CHARGE -
RESOLUTION OF INTENTION TO COLLECT SEWER SERVICE CHARGES ON
COUNTY TAX ROLL FOR FY 2020-21 AND SETTING A PUBLIC HEARING DATE ON
THE CHARGES**

RECOMMENDATION:

It is recommended that the City Council adopt the following resolution:

RESOLUTION NO. 2020-36 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DECLARING ITS INTENTION TO COLLECT SEWER SERVICE CHARGES ON THE COUNTY TAX ROLL FOR FISCAL YEAR 2020-21 AND SETTING JUNE 16, 2020 FOR A PUBLIC HEARING REGARDING THE CHARGES TO BE SO COLLECTED

BACKGROUND:

From 1968 to 1978, the City of West Covina funded the costs of sewer maintenance and operation through the Improvement Act of 1911, which provided an ad valorem (according to value) levy used to pay for these costs. With the passage of Proposition 13, the revenues generated from the 1911 Act were reduced considerably and made it necessary to find an alternative method of funding sewer maintenance and operation costs. In Fiscal Year 1978-1979, the City Council established the Citywide Sewer Service Charge pursuant to Section 38902 of the Government Code as that alternative method.

The Sewer Service Charge funds the maintenance and operation of the City's sewer system assuring that lines are clear and flowing properly. This includes routine video inspections, jetting, and cleaning of sewer lines. The fees also fund capital improvements including purchase of sewer equipment and rehabilitation/replacement of sewer mainlines and appurtenances.

The Sewer Service Charge is based on general land use categories: residential and non-residential. A fixed fee is charged for each dwelling unit for residential property and every 667 square feet of floor area for other types of non-residential developments. Additionally, properties not connected to the sewer main lines are exempt from the charge.

DISCUSSION:

State law requires that a specific procedure be followed to collect the Citywide Sewer Service Charge on the annual property tax bill. The initial step is to adopt a resolution setting a date for a public hearing on the proposed rates and method of collection. The process requires that a public notice be published in a locally circulated newspaper announcing the public hearing. Mailing notices to each property owner is only required when the charges are increased above the current Consumer Price Index (CPI).

Although sewer charges are exempt from voter approval under Proposition 218, if a new or increased sewer charge is to be imposed (more than the CPI), the City Council must conduct a protest hearing 45 days after mailed notice to property owners. If more than 50% of the property owners protest against the fees, the fees may not be imposed. In addition, the property owners are given an opportunity to voice their concerns on the method of collection. The most efficient and least costly method of collecting the Citywide Sewer Service Charge is to place it on the annual property tax bill. The Citywide Sewer Service Charge will then be collected at the same time and in the same manner as the general property taxes. The public hearing to set the rates is currently scheduled for June 16, 2020.

In June 2017, the City Council conducted a protest hearing regarding a proposed increase in the rates for five years, commencing with a 20% increase for Fiscal Year 2017-2018 and 5% thereafter for four years beginning Fiscal Year 2018-2019. The City did not receive majority protest against the proposed increase, so the City may impose the Sewer Service Charge at the maximum proposed level or less until Fiscal Year 2021-2022. The rate increase is consistent with the previously approved five-year budget and is based on the Sewer System Revenue Sufficiency Analysis (Analysis) in conjunction with the Sewer System Management Plan (SSMP) as conducted by Willdan Engineering. As part of the SSMP, Willdan Engineering, in conjunction with the City, identified a series of sewer capital projects that comprise the Sewer Capital Improvement Program in the total amount of \$13,689,100. In order to reduce the impact of initial assessment increase, the working capital balance is allowed to fall below 9 months of operating expenses, targeting a working capital balance of 6 months of operating expenses.

The proposed annual increase to the Sewer Service Charge is from \$74.40 to \$78.12 (an increase of about 31 cents per month or \$3.72 per year) for residential dwelling units, and per 667 square feet of floor area for commercial units.

LEGAL REVIEW:

The City Attorney has reviewed and approved the resolution as to form.

OPTIONS:

The City Council has the following options:

1. Following the public hearing, increase assessment rate by 5% based on the Sewer System Revenue Sufficiency Analysis to increase revenues and stabilize the reserves. Staff is recommending this option.
2. Maintain the assessment rates at their current level; reserves would be depleted sooner and result in the need to reduce services or subsidize the district with General Funds.

Prepared by: Michael Ackerman, City Engineer

Fiscal Impact

FISCAL IMPACT:

The rates are increasing by 5% from \$74.40 to \$78.12 per unit per year based upon a five-year rate schedule approved in Fiscal Year 2017-18. The total proposed sewer rate is projected to generate a total of \$3,698,876. In addition, \$210,000 is projected to be received from the pre-existing ad valorem (according to value) and \$4,948 from cash balance interest. The total projected revenue is \$3,913,324. Including the \$2,474,136 balance from the previous year, the total funds available is \$6,387,461.

The preliminary operating budget for Fiscal Year 2020-2021 is \$2,277,377. This includes an administration and overhead charge of \$139,901. The administration and overhead costs are derived from support services provided

by various departments including: City Manager's office, City Attorney's office, City Clerk's office, Finance Department, and Human Resources Department. Support services include, but not limited to payroll, personnel recruitment, insurance claims, audits, budgets, and purchasing.

The Preliminary Financial Report for Fiscal Year 2020-2021 contains the following components:

1. Budget Summary and Reserve
2. Estimated Revenue Summary
3. Proposed Charge
4. Revised Projected Reserve (Fiscal Year 2019-2020)

There are no legal requirements or formal guidelines for the amount of reserves; however, at least 50% is required to cover cash flow. A reserve between 100% and 200% is recommended by staff to cover cash flow, future capital improvement projects, emergencies, and as a benefit it also provides interest income.

Attachments

Attachment No. 1 - 15 Year Rate History

Attachment No. 2 - Preliminary Financial Report for Fiscal Year 2020-2021

Attachment No. 3 - Forecasted Utility Operating Results - Cash Fund Capital Program; Six Months Working Capital

Attachment No. 4 - Resolution No. 2020-36

CITY COUNCIL GOALS & OBJECTIVES: Enhance City Facilities and Infrastructure
Enhance the City Image and Effectiveness
Enhance City Programs and Activities

**West Covina
Citywide Sewer Service Charges
15 Rate History**

Fiscal Year	Per Dwelling Unit/Month	Per Dwelling Unit/Year
2020-21	\$6.51	\$78.12
2019-20	\$6.20	\$74.40
2018-19	\$5.91	\$70.86
2017-18	\$5.62	\$67.49
2016-17	\$4.69	\$56.24
2015-16	\$4.61	\$55.30
2014-15	\$4.59	\$55.02
2013-14	\$4.54	\$54.48
2012-13	\$4.44	\$53.31
2011-12	\$4.36	\$52.26
2010-11	\$4.19	\$50.25
2009-10	\$3.81	\$45.68
2008-09	\$2.76	\$33.10
2007-08	\$2.34	\$28.05
2006-07	\$2.16	\$25.97



City of West Covina

Citywide Sewer Service Charge

FISCAL YEAR 2020/2021
PRELIMINARY FINANCIAL REPORT

Intent Meeting: May 5, 2020
Public Hearing: June 16, 2020

27368 Via Industria
Suite 200
Temecula, CA 92590
T. 951.587.3500 | 800.755.6864
F. 951.587.3510 | 888.326.6864

Property Tax Information Line
T.866.807.6864

www.willdan.com



BUDGET AND REVENUE SUMMARY

City of West Covina Citywide Sewer Service Charge Fiscal Year 2020/2021 Summary		
Expenditures		Totals*
Operating		
Maintenance		
Personnel Services	\$999,318	
Material and Services	43,989	
Professional Services	291,852	
Maintenance Contracts	150,195	
Utilities	10,000	
Vehicles	24,700	
Fuel and Oil	15,617	
Property & Liability Insurance	146,098	
Total Maintenance	<u>1,681,769</u>	\$1,681,769
Engineering & Incidental		
Personnel Services	383,553	
Materials & Services	10,330	
Consultant Services	23,767	
Property & Liability Insurance	5,272	
Administration & Overhead	139,901	
Total Engineering & Incidental	<u>562,823</u>	562,823
Community Enhancement		
Personnel Services	32,785	
Total Community Enhancement	<u>32,785</u>	32,785
Total Operating Budget		\$2,277,377
Capital Improvement		
Total Capital Budget		<u>0</u>
Total Operating and Capital Budget		\$2,277,377
Contingency and Reserves		
Cash Flow Reserves	1,138,689	
Contingency	2,971,395	
Total Contingency and Reserves	<u>4,110,083</u>	4,110,083
Total Expenditures		\$6,387,461
Revenues		
Assessment Income (Total Balance to Levy)	\$3,698,376	
Property Tax Revenue (Ad Valorem)	210,000	
Interest	4,948	
Total Projected Revenue	<u>\$3,913,324</u>	\$3,913,324
Projected Fund Balance (6/30/20)		2,474,136
Total Funds Available		\$6,387,461

*Totals may not foot due to rounding

PROPOSED ASSESSMENT RATE

In Fiscal Year (FY) 2017-18, the Citywide Sewer Service Charge (the “Sewer Service Charge”) rate was increased by 20% and is proposed to increase by 5% thereafter for four (4) years. For FY 2020-21, the rate will increase from \$74.40 to \$78.12 per unit, for an increase of approximately 31 cents per month or \$3.72 per year. The following table shows proposed rate increases:

Assessment Rate Summary				
FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
\$67.49	\$70.86	\$74.40	\$78.12	\$82.02

Residential	1 DU = 1 unit
Commercial	667 sq ft = 1 unit

Notice of said increases were sent to landowners in FY 2017-18 in accordance with the provisions of Proposition 218 indicating the proposed rates and the date of public hearing. The City of West Covina (the “City”) did not receive majority protest against the proposed increase, the City may now impose the Sewer Service Charge at the maximum proposed level or less.

REVISED PROJECTED RESERVE

Projected Reserve Fiscal Year 2019-20	
Fund Balance (as of 6/30/19)	\$ 3,637,426
Projected Revenue for FY 2019-20	3,520,992
Appropriations (Operating & Capital) for FY 2019-20	(4,684,281)
Projected Fund Balance (as of 6/30/20)	\$ 2,474,137

PRELIMINARY SEWER CHARGE ROLL

The FY 2020-21 preliminary sewer charge roll is voluminous, has been submitted to the City Clerk, and is hereby included by reference.

Forecasted Utility Operating Results - Cash Fund Capital Program; 6-months Working Capital					
Description	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
Increase at:	5%	5%	0%	0%	0%
Revenue from Special Assessments/Sewer Service Charges					
Total Revenue	\$3,698,376	\$3,883,295	\$3,883,295	\$3,883,295	\$3,883,295
Other Non Assessment Revenue (1)					
Other Operating Revenue	210,000	210,000	210,000	210,000	210,000
Interest Earnings	4,948	8,220	11,777	15,249	18,632
Total Operating Revenue	\$3,913,324	\$4,101,515	\$4,105,072	\$4,108,544	\$4,111,927
Expenditures					
Operating Expenses (2)	(2,277,377)	(2,322,925)	(2,369,384)	(2,416,771)	(2,465,107)
Net Operating Revenue	\$1,635,947	\$1,778,590	\$1,735,689	\$1,691,773	\$1,646,821
Debt Service					
Existing Rev. Bond Debt Service	0	0	0	0	0
New Rev. Bond Debt Service	0	0	0	0	0
Total Bond Debt for Coverage	0	0	0	0	0
Net Cash Flow					
Net Operating Revenue (restated)	\$1,635,947	\$1,778,590	\$1,735,689	\$1,691,773	\$1,646,821
Less Cash Funded Capital	0	(1,512,700)	(1,612,400)	(1,765,500)	(1,378,400)
Net Cash Flow	\$1,635,947	\$265,890	\$123,289	(\$73,727)	\$268,421
Fund Balances					
Operating Fund	\$2,474,136	\$4,110,083	\$4,375,974	\$4,499,262	\$4,425,535
Net Cash Flow	1,635,947	265,890	123,289	(73,727)	268,421
Ending Balance	\$4,110,083	\$4,375,974	\$4,499,262	\$4,425,535	\$4,693,956
Capital Program Funding					
Annual Capital Needs	\$0	\$1,512,700	\$1,612,400	\$1,765,500	\$1,378,400
Funding Sources:					
Operating Fund (Cash Funding)	0	1,512,700	1,612,400	1,765,500	1,378,400
New Debt	0	0	0	0	0
Total Capital Funding	\$0	\$1,512,700	\$1,612,400	\$1,765,500	\$1,378,400

(1) Property Tax Revenue; Ad Valorem.

(2) 2% increase in operating expenses due to inflation.

RESOLUTION NO. 2020-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DECLARING ITS INTENTION TO COLLECT SEWER SERVICE CHARGES ON THE COUNTY TAX ROLL FOR FISCAL YEAR 2020-21 AND SETTING JUNE 16, 2020 FOR A PUBLIC HEARING REGARDING THE CHARGES TO BE SO COLLECTED

WHEREAS, on June 26, 1978, in accordance with Section 38902 of the California Government Code, the City Council adopted Resolution No. 5726, establishing a sewer service charge exclusively for sewer operation, maintenance, and capital costs. The City collects the sewer service charge as part of the property tax roll; and

WHEREAS, on April 27, 1987, the City Council adopted Resolution No. 8019, amending Resolution No. 5726 to adjust the schedule of charges so that the fees collected bear a reasonable relationship to the cost of providing the services; and

WHEREAS, on June 6, 2017, the City Council adopted Resolution No. 2017-55, adopting a five-year schedule of annual sewer service charges for Fiscal Years 2017-18, 2018-19, 2019-20, 2020-21, and 2021-22; and

WHEREAS, the five-year schedule was adopted following proceedings conducted pursuant to Article XIII D, Section 6(a) of the California Constitution, which was added to the California Constitution in 1996 as part of Proposition 218; and

WHEREAS, a report has been filed with the City Clerk containing a description of each parcel of real property receiving sewer services and the amount of the charge for each parcel for the year, computed in conformity with the charges adopted by the City Council (the "Report"); and

WHEREAS, the City Council desires to initiate proceedings to collect the sewer service charges on the property tax roll for Fiscal Year 2020-21.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Pursuant to Health and Safety Code section 5471 and other applicable law, the City Council intends to collect its sewer service charges for Fiscal Year 2020-21 at the following rate:

Rate:	\$78.12 per unit
Residential:	One dwelling unit equals one unit
Commercial:	667 sq. ft. of floor area equals one unit

SECTION 2. As authorized by Health and Safety Code section 5473 or other applicable law, the City Council elects to have the City's sewer service charges collected on the tax roll in the same manner, and by the same persons, and at the same time as, together with and not separately from, the City's general taxes.

SECTION 3. On June 16, 2020, at 7:00 p.m. in the City Council Chambers located at 1444 West Garvey Avenue South in the City of West Covina, or electronically if the City Council Chambers remain closed due to the COVID-19 pandemic, the City Council will conduct a public hearing on the Report (the ‘Hearing’). At the Hearing, the City Council will hear and consider all objections or protests, if any, to the Report.

SECTION 4. The City Clerk shall give notice of said Hearing in the time, form, and manner as required by law.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

APPROVED AND ADOPTED this 5th day of May, 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-36 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:
NOES:
ABSENT:
ABSTAIN:

Lisa Sherrick
Assistant City Clerk



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

SUBJECT: CONSIDERATION OF AUTHORIZATION TO PARTICIPATE IN THE CALIFORNIA JOINT POWERS AUTHORITY (CJPIA) FOR THE CITY'S GENERAL LIABILITY AND WORKERS' COMPENSATION AND OTHER INSURANCE NEEDS

RECOMMENDATION:

It is recommended that City Council take the following actions:

1. Authorize the City's withdrawal from the California State Association of Counties (CSAC) Excess Insurance Authority effective July 1, 2020.
2. Authorize the City to join the California Joint Powers Insurance Authority (CJPIA) and pool the City's self-insurance general liability and workers' compensation insurance through the CJPIA programs by adopting the following resolutions:

RESOLUTION NO. 2020-37 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING EXECUTION OF THE JOINT POWERS AGREEMENT CREATING THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY

RESOLUTION NO. 2020-38 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, TO AUTHORIZE AND APPROVE POOLING OF SELF-INSURANCE THROUGH THE EXCESS LIABILITY PROTECTION PROGRAM OF THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY

RESOLUTION NO. 2020-39 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, TO AUTHORIZE AND APPROVE POOLING OF SELF-INSURANCE THROUGH THE EXCESS WORKERS' COMPENSATION PROGRAM OF THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY

RESOLUTION NO. 2020-40 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PROVIDING WORKERS' COMPENSATION COVERAGE FOR CERTAIN CITY OF WEST COVINA VOLUNTEERS PURSUANT TO THE PROVISIONS OF SECTION 3363.5 OF THE LABOR CODE

3. Authorize the City Manager to negotiate and execute the Joint Powers Agreement and any related documents.
4. Authorize the use of CJPIA for the City's other insurance needs, such as property, automobile, cyber and crime and authorize the City Manager to execute any related documents.
5. Authorize the City Manager to negotiate and execute Third-Party Administrator (TPA) Agreements with Carl

Warren and Company for General Liability Claims Administration and Sedgwick for Workers' Compensation Claims Administration and any related documents.

6. Authorize the Finance Director to fund and replenish reserve funds for the payment of the self-insured retention (SIR) portion of general liability claims with Carl Warren and Company and Workers' Compensation claims with Sedgwick; and
7. Approve the Certification of Director and Alternate(s) to CJPIA, appointing Councilmember Dario Castellanos as Director, and appointing City Manager David Carmany, Mayor Tony Wu, Mayor Pro Tem Letty Lopez-Viado, Councilmember Lloyd Johnson, and Councilmember Jessica Shewmaker as alternates to represent the City Council.

BACKGROUND:

The City has been a member of the Big Independent Cities Excess Pool (BICEP) since July 2002. BICEP has provided the City with Excess Insurance Coverage for both Workers' Compensation and General Liability for losses in excess of \$1 million. BICEP stopped operating as a vehicle for purchasing insurance in July 2019 and is in the process of dissolution of their agency. Due to BICEP's dissolution, the City began exploring insurance coverage elsewhere. Effective July 1, 2019, the City of West Covina joined the California State Association of Counties Excess Insurance Authority (CSAC EIA) program as a direct member for Excess Workers' Compensation and became a new member of the Liability program.

The City previously applied for California Joint Powers Insurance Authority (CJPIA) membership in fiscal year 2019-2020 and met with CJPIA staff to discuss identified exposures and risk management deficiencies, particularly an unstable workforce within the City, that prevented further consideration of membership.

In February 2020, the City of West Covina reapplied for CJPIA membership and participation in the Authority's Excess Liability, Excess Workers' Compensation, and Property Insurance Programs. CJPIA staff engaged in constructive dialogue with City staff and encouraged remedial actions to address previous concerns. To that end, City Council appointed David Carmany as its City Manager and the City has filled essential department head positions.

DISCUSSION:

Staff has performed preliminary research on the availability and cost of insurance alternatives, both commercial excess insurances and membership in other insurance pools. It is determined the most comprehensive excess insurance programs are within the insurance pools. Favorably influencing the City's insurability has been the stabilization of the City's staff particularly at the department head positions. Also, changing the risk exposure of the City has been an aggressive risk management program, to minimize loss and exposure, and improve the overall prospective member profile. The City has been able to demonstrate to CJPIA a commitment to risk management at every level within the organization including the governing body, executive management team, department heads and all staff.

Although the City is making significant improvements in stabilizing its workforce and incorporating risk management practices mitigating its exposures, the Authority placed four membership conditions in order to protect the pool and the members; 1) for claims categorized as employment practices liability, the city will have a separate Member Retained Limit of \$1,000,000 per occurrence, 2) delegation of settlement authority in the amount of \$750,000 to the CJPIA (\$1,000,000 for employment practices claims), 3) delegation of claims handling authority allowing the CJPIA to send notice of the rejection and shortening the timeframe in which to file a lawsuit to six months, and 4) the city will be required to complete the action items noted in the Initial Risk Management Evaluation report within 18 months.

On April 1, 2020, the CJPIA Underwriting Committee recommended approval to join the CJPIA.

On April 22, 2020, the Executive Committee approved the City of West Covina to join the CJPIA risk management

pool for the Authority's Excess Liability, Excess Workers' Compensation and Property Insurance Programs.

The below chart summarizes the coverages and cost (annual cost \$1,635,400) for each insurance program as a member of the California JPIA:

California JPIA Coverage Cost		
Type Coverage	Coverage Limit	Annual Cost
Excess General Liability		
General Liability	\$50,000,000	\$1,072,900
Self-Insured Retention	\$1,000,000	N/A
Claims Administration	N/A	\$48,900
Total Excess General Liability Cost		\$1,121,800
Excess Workers Compensation (WC)		
WC Limit	Statutory	\$347,500
Self-Insured Retention	\$1,000,000	N/A
Claims Administration		Included
Total Excess Workers Compensation Cost		\$347,500
Property Insurance		
Property Limit	\$500,000,000	\$136,100
Deductible	\$10,000	
Total Property Insurance Cost		\$136,100
Other Programs		
Cyber Liability Premium	Included	Included
Crime	Included	\$6,300
Pollution	Included	\$23,700
Total Other Programs		\$30,000
Total Annual Membership Cost		\$1,635,400

LEGAL REVIEW:

The City Attorney's Office has reviewed and approved the resolutions as to form.

Fiscal Impact

FISCAL IMPACT:

Cost for General Liability and Workers' Compensation Program at a self-insured retention (SIR) of \$1,000,000, Property Insurance and Other Programs (e.g. Cyber, Crime and Pollution) for Fiscal Year 2020-2021 is \$1,635,400.

Coverage	Cost	Account
Excess General Liability	\$1,121,800.00	361.15.1520.6411
Excess Workers' Compensation	\$347,500.00	361.15.1510.6411
Property Insurance	\$136,100.00	361.15.1520.6411
Other Programs (e.g. Cyber, Crime and Pollution)	\$30,000.00	361.15.1520.6411

Attachments

Attachment No. 1 - CJPIA Cost Indication and Membership Information

Attachment No. 2 - CJPIA Joint Powers Agreement

Attachment No. 3 - CJPIA Bylaws

3 Attachment No. 4 - Resolution 2020-37 Authorizing Membership with CJPIA

Attachment No. 5 - Resolution 2020-38

Attachment No. 6 - Resolution No. 2020-39

Attachment No. 7 - Resolution 2020-40

Attachment No. 8 - Certification of Director & Alternates to CJPIA

Attachment No. 9 - Initial Risk Management Evaluation - IRME

CITY COUNCIL GOALS & OBJECTIVES: Achieve Fiscal Sustainability and Financial Stability
Enhance City Programs and Activities



City of West Covina Cost Indication - February 25, 2020



CALIFORNIA
J · P · I · A

Providing innovative risk management solutions for our public agency partners

About Us



History

The California JPIA was established in 1978 for the purpose of providing liability protection for its members. Today, the California JPIA is one of the largest municipal self-insurance pools in the state, with over 100 participating members.

The members take an active role in determining the programs and services provided by the Authority. Councilmembers/board members, city managers/chief executives, finance officers, and risk managers all participate in directing the progression of the organization toward a properly maintained and risk-free environment.

The California JPIA works with the members to reduce the frequency and severity of claims. Through risk analysis and continuing education, the Authority helps its members identify exposures and prevent losses. Each member agency is assigned a professional Risk Manager to serve its specific needs and to help the agency determine its risk management strategy.

Members

The Authority's membership is composed of 116 municipal agencies throughout California: 92 cities, 18 joint powers authorities, and six special districts. The strength of the California JPIA consists of its diverse members and their role in shaping an organization that provides important coverage for their operations. These members have put in place programs that have proven their endurance over time and have taken decisive action to ensure continuance of the ideals present when the California JPIA was first formed.

Governance

The Board of Directors consists of one individual from the governing board of each member of the Authority. The nine members of the Executive Committee are chosen by the Board of Directors, and are elected as president, vice president, and seven at-large directors to oversee the Authority's affairs. The Executive Committee meets monthly to review and approve policies related to the California JPIA's many programs and services. In addition, the Executive Committee also carries out ex-officio responsibility for Claims, Budget, Bylaws, and Personnel Committees. Chairs for the Authority's advisory committees, Managers and Finance Officers, are also participants in Executive Committee and Claims Committee meetings.

This Managers Committee carries the voice of member managers and chief executives, providing guidance on programs and service delivery. It also hears items brought before the Finance Officers Committee. The Managers Committee meets on the second Monday of the second month of each quarter, and is chaired by Thaddeus McCormack, City Manager for the City of Lakewood.

The Finance Officers Committee carries the voice of member finance officers, playing an important role in advising the Authority on investment policy and performance, budget, cost allocation, and general finance related issues. The Finance Officers Committee meets on the second Thursday of the second month of each quarter, and is chaired by Jose Gomez, Director of Administrative Services for the City of Lakewood.

About Us



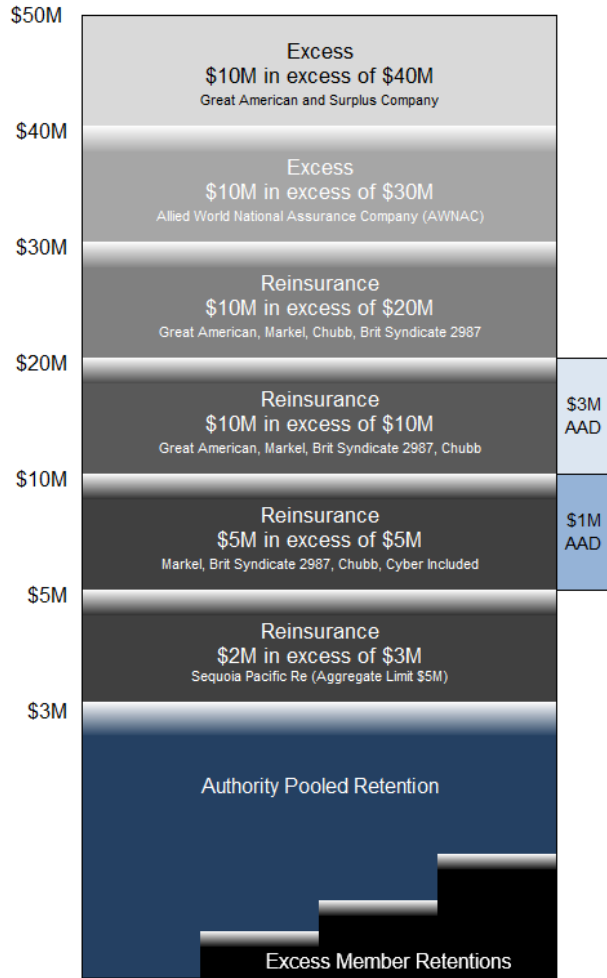
Financial Strength

Strength can be defined as the capacity for exertion or endurance. Strength is a core quality of the California JPIA, as evidenced by the Authority's broad protection programs, firm capital position, best-in-class strategic partners, and professional staff.

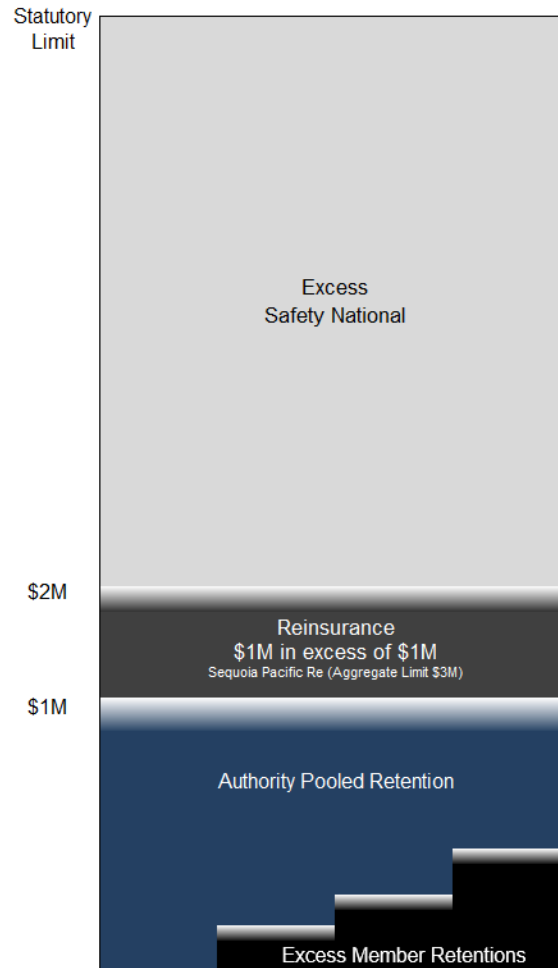
The Authority's portfolio, of over \$300 million, is conservatively invested in accordance with its adopted investment policy. Net assets include contingency funding for potential adverse claim development, actuarial funding above expected confidence, as well as reserves for other financial risks and hazards within the Authority's operating environment. Investment practices take into consideration the Authority's unique investment needs including preservation of capital, maintaining appropriate levels of liquidity, compliance with State law, and earning a reasonable market rate of return. Protection of the portfolio's principal is the primary investment objective. At present, the Authority's investment program is administered by PFM Asset Management with oversight provided by the Treasurer, Executive Committee, and Finance Officers Committee. All investment activities are reported to all members monthly.

California JPIA Coverage Structure

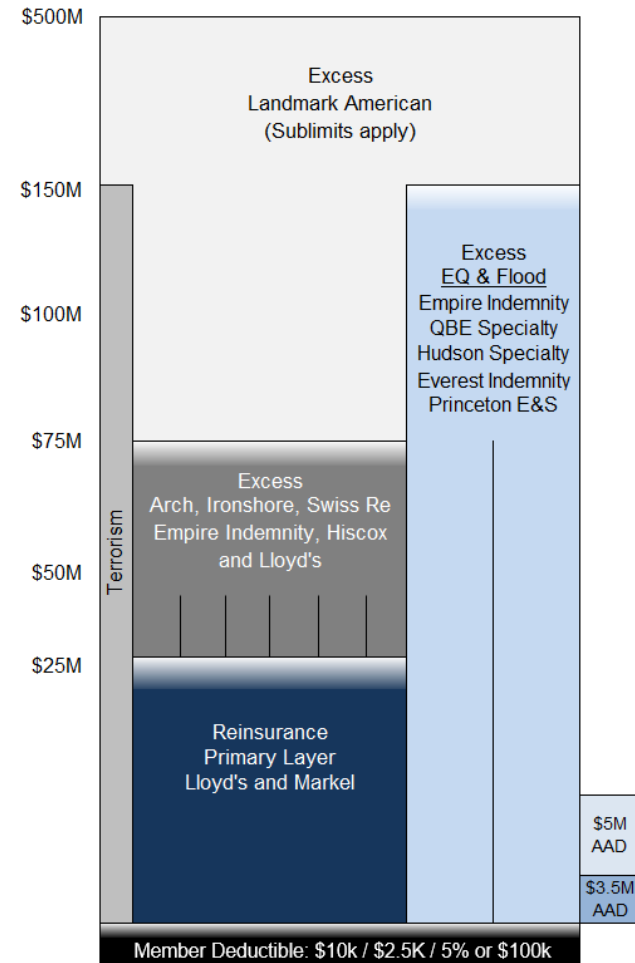
Liability Program



Workers' Compensation Program



Property Program



Excess Liability Program



Program Description: The excess liability program is an attractive coverage option for agencies with medium/high risk-tolerance, full-time dedicated risk management staff, effective loss control, and the financial capacity to properly fund a high member-retained limit. The program offers member-retained limits of \$150k to \$2 million. The program is funded by annual contributions from members that cover the pooled layer of losses, operating expenses, and most training and risk management program expenses. The minimum commitment period is three years.

Tort Liability Coverages: Bodily Injury, Property Damage, Personal Injury, Advertising Injury, Public Officials E&O, Automobile Liability, Employment Practices Injury, and Employee Benefits Administration Liability.

Coverage Limit: The program offers \$50 million of coverage per occurrence and is funded at the 70% – 80% confidence level.

Pooled Retention: \$3m



Excess Liability Program



Public Safety: Police claims are pooled separately.

Claims Administration Fee: Claims administration fees are calculated based on the City's historical claim volume and its mix of various claim types. The annual fee is based on the assumption that the City's claim volume during the contract period will be similar to its historical claim volume.

Claims Management: A collaborative process managed by the member for claims within the member's retention, utilizing the Authority's designated claims administrator, Carl Warren and Company, with oversight from and consultation with Authority staff, full-time dedicated client service team implementing industry best practices with high quality performance standards. Each member determines how engaged they want to be in the claims management process.

Defense Counsel: Members choose from the Authority's pre-approved defense panel, which has a variety of legal specializations tailored to municipal risks, defense panel complies with Authority-established reporting requirements, pre-trial budgets, and negotiated panel rates (non-panel counsel is permitted with prior approval). Additions to the panel are considered upon request.

Liability Loss Data Update
September 2019 vs. January 2020

Coverage Year	Total Incurred as of 9/30/19	Total Incurred as of 1/31/20	Change	%
2009-2010	\$ 458,858	\$ 457,138	\$ (1,720)	-0.4%
2010-2011	764,075	758,728	(5,348)	-0.7%
2011-2012	295,017	294,751	(266)	-0.1%
2012-2013	241,254	241,254	0	0.0%
2013-2014	473,534	473,534	0	0.0%
2014-2015	627,176	777,176	150,000	23.9%
2015-2016	7,506,644	8,194,160	687,516	9.2%
2016-2017	1,279,748	1,242,198	(37,550)	-2.9%
2017-2018	2,656,384	7,144,573	4,488,189	169.0%
2018-2019	696,018	255,936	(440,081)	-63.2%
Total	\$ 14,998,708	\$ 19,839,448	\$ 4,840,740	32.3%

**Cost Indication Revision
Based on updated loss data**

Member Retention	Cost Indication as of 2/19/20	Cost Indication as of 2/25/20	Change	%
\$300K	\$ 1,361,700	\$ 1,501,400	\$ 139,700	10.3%
\$400K	1,274,900	1,402,600	127,700	10.0%
\$500K	1,205,100	1,323,000	117,900	9.8%
\$750K	1,076,500	1,176,400	99,900	9.3%
\$1.0M	985,800	1,072,900	87,100	8.8%
\$1.5M	851,800	919,900	68,100	8.0%
\$2.0M	770,800	827,500	56,700	7.4%

City of West Covina
Liability Payroll

Coverage Year	General Government	Police	Total	Trend
2013-2014	\$ 21,627,633	\$ 11,704,158	\$ 33,331,791	
2014-2015	21,110,646	11,503,190	32,613,836	-2.2%
2015-2016	21,990,816	11,217,577	33,208,393	1.8%
2016-2017	22,050,672	11,626,990	33,677,662	1.4%
2017-2018	24,693,139	12,608,030	37,301,169	10.8%
2018-2019	\$ 23,085,920	\$ 13,228,286	\$ 36,314,207	-2.6%

Medicare Wages Per IRS Form 941		Payroll Per Application	
2018 Q1		Police	\$ 13,228,286
2018 Q2		Fire	9,976,298
2018 Q3		Other	13,109,623
2018 Q4		Total	<u>\$ 36,314,207</u>
Total	<u>\$ -</u>		
		GG	23,085,920
		PO	13,228,286
Q4 Annualized	<u>\$ -</u>	Total	<u>\$ 36,314,207</u>

Note: Payroll data was delayed one year for underwriting purposes

City of West Covina

Largest GL Claims

Liability Losses

Valuation Date: 1/31/2020, claim #1982620 updated as of 2/25/2020

Coverage Years: 2009-10 through 2018-19

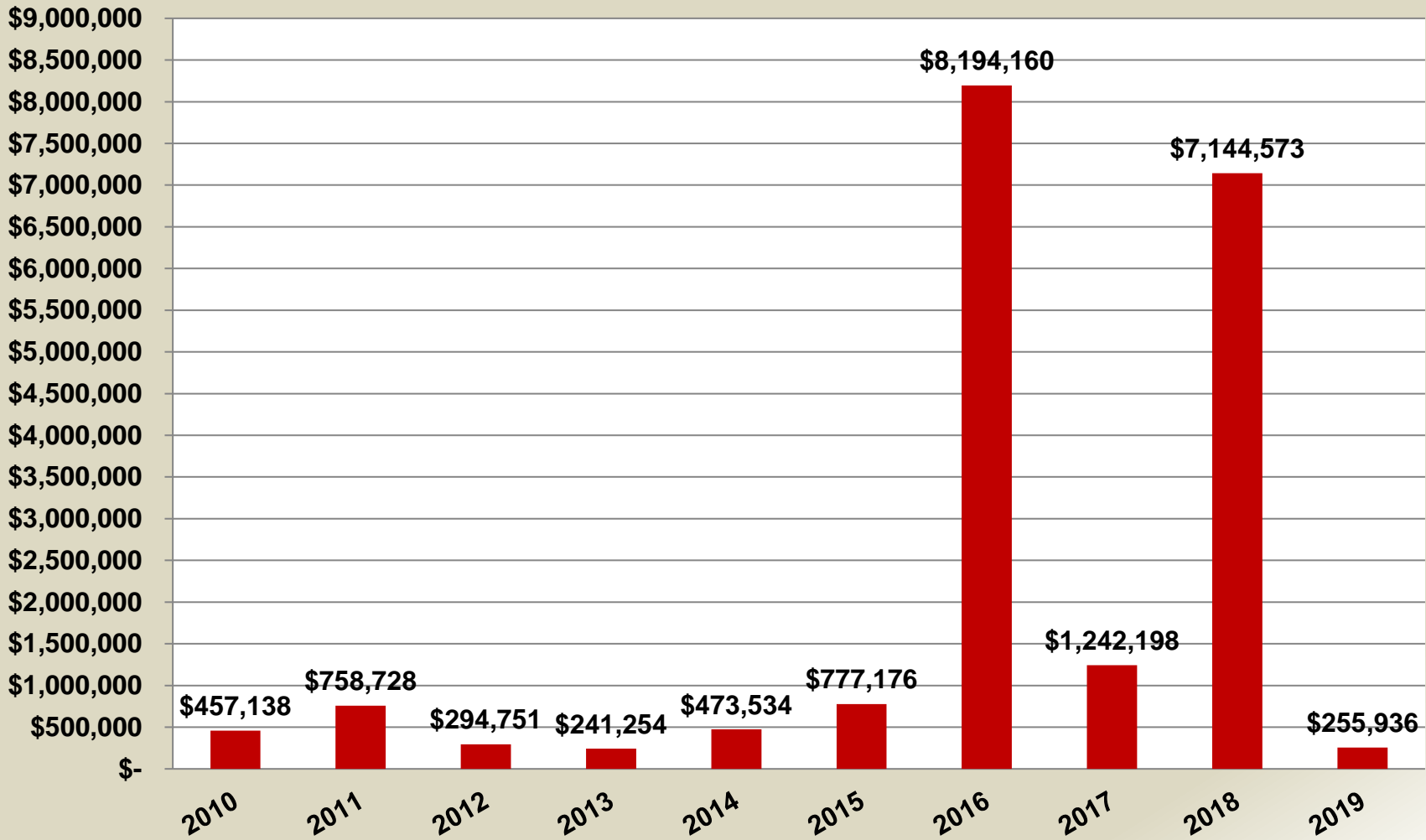
Claim #	Lead Claimant	GG/PO	Department	DOL	Cov. Yr.	Status	Description	Paid	Reserve	Total Incurred
1982620	FRANCO JR, RICHARD	PO	POLICE	12/15/17	2017-2018	Open	EXCESSIVE USE OF FORCE	\$ 67,798	\$ 4,582,202	\$ 4,650,000
1932253	BRILEY, JASON	GG	FIRE (NOT AMBULANCE)	09/10/15	2015-2016	Open	WRONGFUL TERMINATION	399,397	4,184,721	4,584,117
1950926	RODRIGUEZ, JOSHUA	PO	POLICE	05/27/16	2015-2016	Closed	EXCESSIVE USE OF FORCE, K-9 UNIT, DOG BITE	1,109,141	-	1,109,141
1981811	MILLER, JESSE	PO	POLICE	12/11/17	2017-2018	Open	RETALIATION / EMPLOYMENT PRACTICES	120,646	879,354	1,000,000
1964108	GUTIERREZ, JULIAN	PO	POLICE	07/31/15	2015-2016	Open	CIVIL RIGHTS- EXCESSIVE USE OF FORCE	254,634	547,367	802,001
1971586	VOLASGIS, JOSHUA	PO	POLICE	08/28/17	2017-2018	Closed	EMPLOYMENT - HARASSMENT	795,839	-	795,839
1992187	WEST COVINA FIRE	GG	FIRE (NOT AMBULANCE)	06/02/15	2014-2015	Open	UNFAIR LABOR PRACTICES	282,803	276,148	558,951
1935225	ALACHADZHYAN, M	PO	POLICE	03/13/16	2015-2016	Closed	EXCESSIVE USE OF FORCE	513,694	-	513,694
1969903	MIRANDA-CARBALL	PO	POLICE	04/25/17	2016-2017	Closed	OFFICER INVOLVED SHOOTING	508,309	-	508,309
1994841	Palacios, ANTHONY	PO	POLICE	02/25/17	2016-2017	Open	CIVIL RIGHTS- EXCESSIVE USE OF FORCE	43,103	399,136	442,239
1937299	IOANNIDIS, RIA	GG	CITY CLERK	12/01/15	2015-2016	Closed	WRONGFUL TERMINATION	349,444	-	349,444
1752078	KENNEDY, TYLER	PO	POLICE	09/30/10	2010-2011	Closed	EMPLOYMENT	346,247	-	346,247
1760852	ESPINOSA, JUAN	PO	POLICE	02/12/12	2011-2012	Closed	EXCESSIVE USE OF FORCE	246,047	-	246,047
1928062	BRAVO, OLGA	PO	POLICE	11/29/15	2015-2016	Closed	COLLISION-MISC/UNCLASSIFIED	242,269	-	242,269
1885077	DOMINGUEZ, DEBB	GG	CITY MANAGER	04/18/14	2013-2014	Closed	EMPLOYMENT - HARASSMENT	242,099	-	242,099
1918779	YEE, CHARLIE	PO	POLICE	08/08/15	2015-2016	Closed	OFFICER INVOLVED SHOOTING	221,450	-	221,450
1752101	WILBER, DANIEL	PO	POLICE	06/12/11	2010-2011	Closed	MISC-FROM PERSONAL INJURY - POLICE	212,693	-	212,693
1986174	NATIONWIDE, ASO	PO	POLICE	06/29/18	2017-2018	Closed	COLLISION-MISC/UNCLASSIFIED	10,808	195,544	206,352
1857489	PEREZ, VERONICA	PO	POLICE	04/16/13	2012-2013	Closed	MISC-COMPLETED OPERATIONS	204,983	-	204,983
1974866	SOLANO, MARIA	GG	MAINTENANCE	08/22/17	2017-2018	Open	SLIP/FALL-PEDESTRIAN-ON SIDEWA	54,971	130,402	185,373
1868612	RAMIREZ, EDITH	PO	POLICE	10/14/13	2013-2014	Closed	CLAIMANT STRUCK-BY OBJECT-NOT	181,070	-	181,070
1752054	GOMEZ, RAQUEL	PO	POLICE	06/30/10	2009-2010	Closed	MISC-UNCLASSIFIED	178,966	-	178,966
1930270	LUEBE, CYNTHIA	GG	PUBLIC WORKS	08/28/15	2015-2016	Open	SLIP/FALL-PEDESTRIAN-ON SIDEWA	40,550	84,450	125,000
1896845	THE INLAND OVERS	GG	CITY COUNCIL	10/21/14	2014-2015	Closed	MISC-UNCLASSIFIED	113,912	-	113,912
1752000	LENHARDT, GUADA	GG	PUBLIC WORKS	08/23/09	2009-2010	Closed	SLIP/FALL-PEDESTRIAN-ON SIDEWA	103,775	-	103,775
1953871	RIOS, KASEY	GG	FIRE (NOT AMBULANCE)	10/23/16	2016-2017	Closed	COLLISION-MISC/UNCLASSIFIED	93,684	-	93,684
1751999	EL-SAID, SAM	PO	POLICE	09/16/09	2009-2010	Closed	MISC-UNCLASSIFIED	80,651	-	80,651
1988438	PROCTOR, REBECC	GG	MAINTENANCE	06/08/18	2017-2018	Open	MISC-IMPROPERLY MAINTAINED ROA	-	80,358	80,358
1960090	TORRES, JOE	GG	PUBLIC WORKS	12/02/16	2016-2017	Closed	MISC-UNCLASSIFIED	76,775	-	76,775
1985561	GLEN, SANDRA	GG	MAINTENANCE	04/09/18	2017-2018	Open	MISC-UNCLASSIFIED	2,258	72,743	75,000
1752107	FLANNERY, ARLEA	GG	PUBLIC WORKS	03/31/11	2010-2011	Closed	CLAIMANT STRUCK-AGAINST OBJECT	54,685	-	54,685
1929426	MIRAMONTES, CAR	PO	POLICE	08/19/15	2015-2016	Closed	MISC-FROM PERSONAL INJURY	53,246	-	53,246
1983877	MORENO, JANIE	GG	MAINTENANCE	07/01/18	2018-2019	Open	SLIP/FALL-PEDESTRIAN-ON SIDEWA	1,646	48,354	50,000

City of West Covina
 GL Frequency and Severity Stratification
 General Government and Police

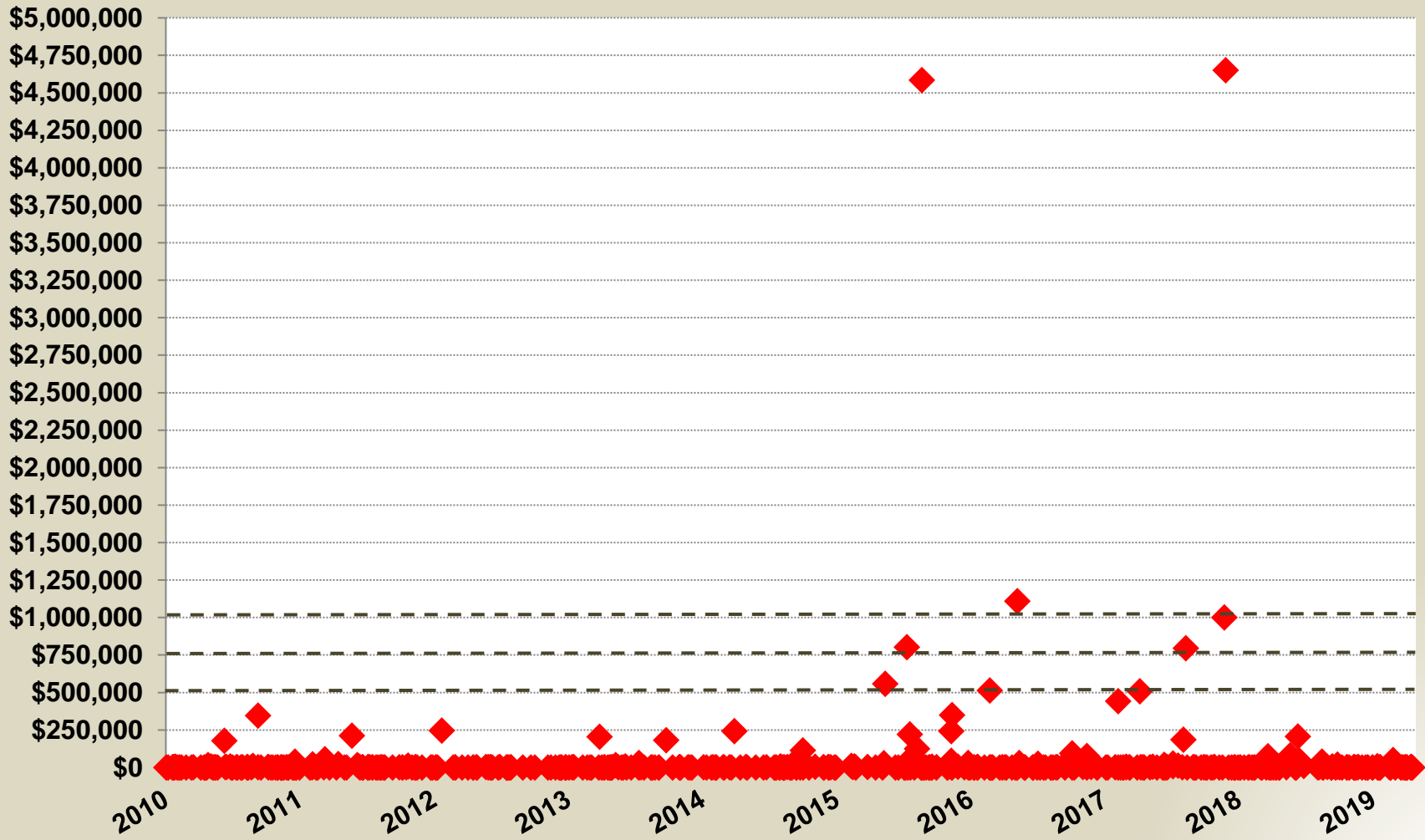
		Zero Value	Between \$0-\$250k	Between \$250k-\$500k	Between \$500k-\$750k	Between \$750k-\$1m	Between \$1m-\$1.5m	Between \$1.5m-\$2m	\$2m+	Total
FREQUENCY	1 2009-2010	26	34	-	-	-	-	-	-	60
	2 2010-2011	24	32	1	-	-	-	-	-	57
	3 2011-2012	25	30	-	-	-	-	-	-	55
	4 2012-2013	31	15	-	-	-	-	-	-	46
	5 2013-2014	20	17	-	-	-	-	-	-	37
	6 2014-2015	25	17	-	1	-	-	-	-	43
	7 2015-2016	33	30	1	1	1	1	-	1	68
	8 2016-2017	22	27	1	1	-	-	-	-	51
	9 2017-2018	29	33	-	-	1	1	-	1	65
	10 2018-2019	33	30	-	-	-	-	-	-	63
10 Year Avg	26.8	26.5	0.3	0.3	0.2	0.2	-	0.2	54.5	
5 Year Avg	25.8	24.8	0.4	0.6	0.4	0.4	-	0.4	52.8	
% in Layer	48.9%	47.0%	0.8%	1.1%	0.8%	0.8%	0.0%	0.8%	100.0%	

		Zero Value	Between \$0-\$250k	Between \$250k-\$500k	Between \$500k-\$750k	Between \$750k-\$1m	Between \$1m-\$1.5m	Between \$1.5m-\$2m	\$2m+	Total
SEVERITY	1 2009-2010	-	\$ 457,138	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 457,138
	2 2010-2011	-	662,481	96,247	-	-	-	-	-	758,728
	3 2011-2012	-	294,751	-	-	-	-	-	-	294,751
	4 2012-2013	-	241,254	-	-	-	-	-	-	241,254
	5 2013-2014	-	473,534	-	-	-	-	-	-	473,534
	6 2014-2015	-	468,225	250,000	58,951	-	-	-	-	777,176
	7 2015-2016	-	2,085,762	1,099,444	763,694	552,001	609,141	500,000	2,584,117	8,194,160
	8 2016-2017	-	791,650	442,239	8,309	-	-	-	-	1,242,198
	9 2017-2018	-	1,448,735	750,000	750,000	545,839	500,000	500,000	2,650,000	7,144,573
	10 2018-2019	-	255,936	-	-	-	-	-	-	255,936
10 Year Avg	-	\$ 717,947	\$ 263,793	\$ 158,095	\$ 109,784	\$ 110,914	\$ 100,000	\$ 523,412	\$ 1,983,945	
5 Year Avg	-	\$ 1,053,581	\$ 508,337	\$ 316,191	\$ 219,568	\$ 221,828	\$ 200,000	\$ 1,046,823	\$ 3,566,328	
% in Layer		29.5%	14.3%	8.9%	6.2%	6.2%	5.6%	29.4%	100.0%	

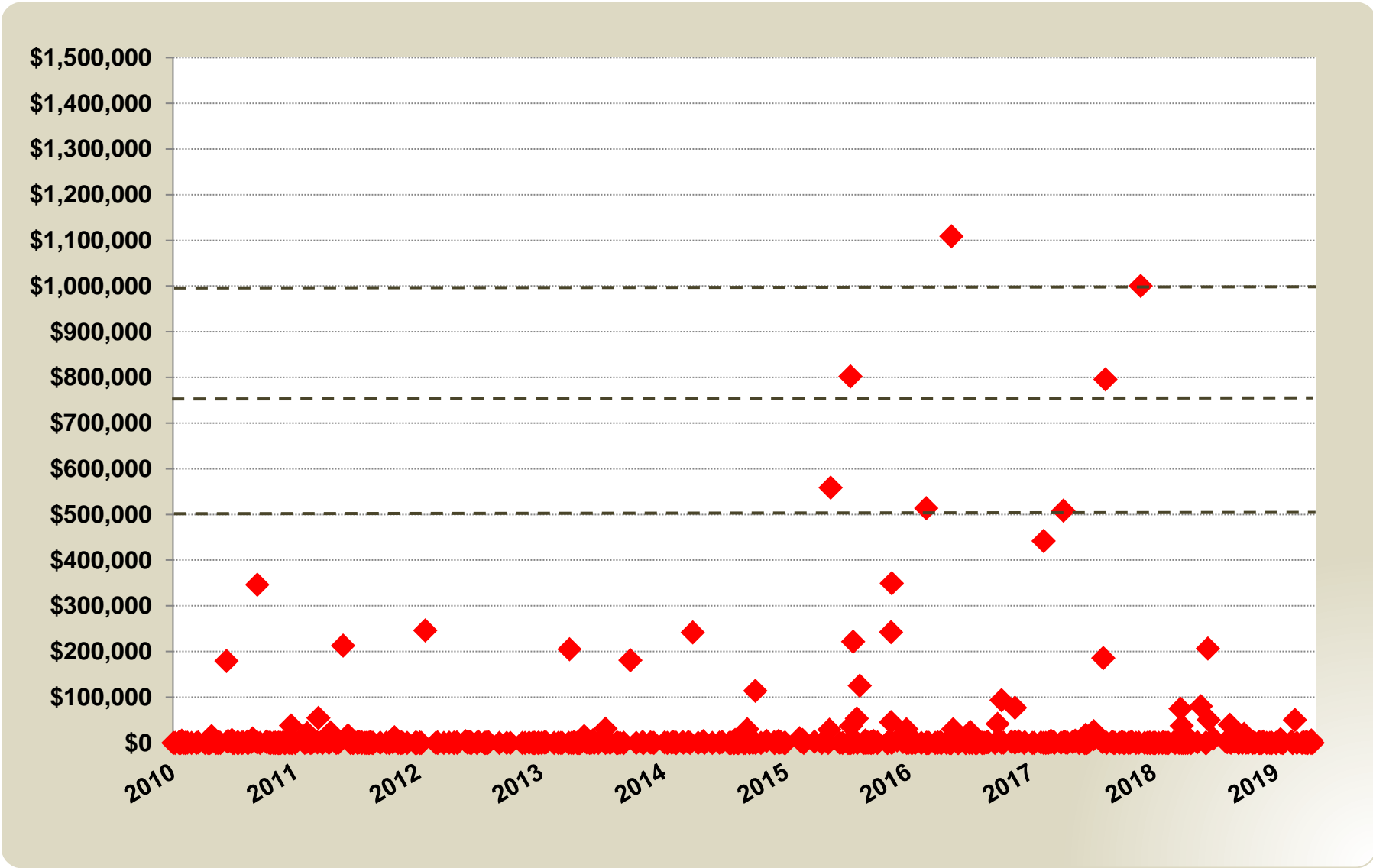
City of West Covina
Liability Claim Bar Chart
General Government and Police



City of West Covina
Liability Claim Scattergram
General Government and Police, All Claims



City of West Covina
Liability Claim Scattergram
General Government and Police, Claims Below \$1.5M





Excess Liability Program

Covered Party: City of West Covina

Coverage Term: 07/01/20 - 07/01/21

Cost Indication Date: 2/25/20

Cost Indication

Optional Member Retained Limits (MRLs)							
	\$ 300k	\$ 400k	\$ 500k	\$ 750k	\$ 1m	\$ 1.5m	\$ 2m
Annual Contribution							
General Government	\$ 534,700	\$ 506,200	\$ 484,100	\$ 443,000	\$ 414,600	\$ 373,500	\$ 348,200
Police	966,700	896,400	838,900	733,400	658,300	546,400	479,300
Total	\$ 1,501,400	\$ 1,402,600	\$ 1,323,000	\$ 1,176,400	\$ 1,072,900	\$ 919,900	\$ 827,500
MRL Discount %		-7%	-12%	-22%	-29%	-39%	-45%
MRL Discount \$		\$ (98,800)	\$ (178,400)	\$ (325,000)	\$ (428,500)	\$ (581,500)	\$ (673,900)
Rate per \$100 of Payroll							
General Government	\$ 2.32	\$ 2.19	\$ 2.10	\$ 1.92	\$ 1.80	\$ 1.62	\$ 1.51
Police	7.31	6.78	6.34	5.54	4.98	4.13	3.62
Blended	4.13	3.86	3.64	3.24	2.95	2.53	2.28

Note: This is a preliminary cost indication based on data submitted to the California JPIA, as well as written and verbal representations made by staff members of the government agency applying for membership. The amounts stated above may change, based on subsequent events, claim development, and new information regarding the risk profile of the applying agency, as it becomes available, up until the completion of the underwriting process. Claims administration fees are excluded from the contributions stated above, and are expected to be approximately \$48,900 annually.

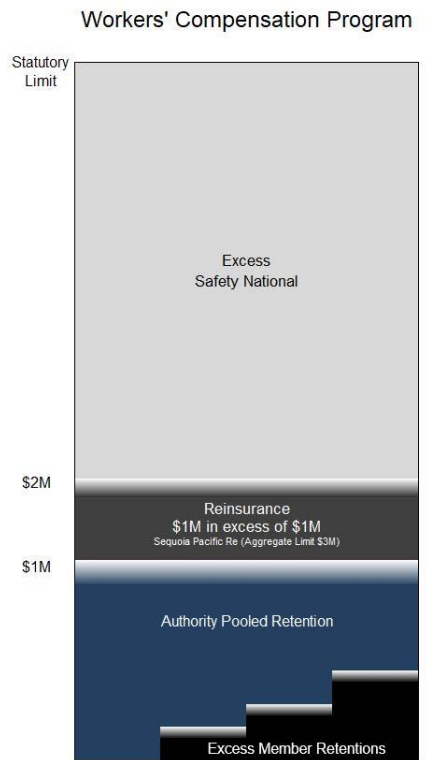
Excess Workers' Compensation



Program Description: The excess workers' compensation allows members to choose from retained limits of \$150k to \$2 million. Members of the excess workers' compensation program have full access to the Authority's innovative risk management and training programs, have a dedicated claims management team, and utilize defense counsel from the Authority's pre-approved panel of attorneys. The program is funded by members' annual contributions that cover the pooled layer of losses, operating expenses, and most training and risk management program expenses. Members are responsible for self-owned trust accounts for member-retained claim payments and California state assessments.

Coverage Limit: The program has statutory coverage limits and is funded at a confidence level of 70 - 80%.

Pooled Retention: \$1m



Excess Workers' Compensation



Public Safety: Public safety claims are pooled separately.

Claims Administration Fee: Claims administration fees are included.

Claims Management: A collaborative process managed by the member for claims within the member's retention, utilizing the Authority's designated claims administrator, Sedgwick, with oversight from and consultation with Authority staff, full-time dedicated client service team implementing industry best practices with high quality performance standards. Each member determines how engaged they want to be in the claims management process.

Defense Counsel: Members choose from the Authority's pre-approved panel of attorneys. Additions to the panel are considered upon request.

Cost Containment Programs: Medical Provider Network, Nurse Case Management, Pharmacy Benefit Management, Early Return to Work Program, Utilization Review, Bill Review

City of West Covina
Workers' Compensation Payroll

Coverage Year	General Government	Public Safety	Total	Trend
2013-2014	\$ 12,718,138	\$ 20,613,653	\$ 33,331,791	
2014-2015	12,282,099	20,331,737	32,613,836	-2.2%
2015-2016	12,285,572	20,922,821	33,208,393	1.8%
2016-2017	12,282,548	21,395,114	33,677,662	1.4%
2017-2018	13,839,459	23,461,710	37,301,169	10.8%
2018-2019	\$ 13,109,623	\$ 23,204,584	\$ 36,314,207	-2.6%

Medicare Wages Per IRS Form 941		Payroll Per Application	
2018 Q1		Police	\$ 13,228,286
2018 Q2		Fire	9,976,298
2018 Q3		Other	<u>13,109,623</u>
2018 Q4		Total	<u>\$ 36,314,207</u>
Total	<u>\$ -</u>		
		GG	13,109,623
		PS	<u>23,204,584</u>
Q4 Annualized	<u>\$ -</u>	Total	<u>\$ 36,314,207</u>

Note: Payroll data was delayed one year for underwriting purposes

City of West Covina

Workers' Compensation Losses

Valuation Date: 12/31/2019

Coverage Years: 2009-10 through 2018-19

Largest WC Claims

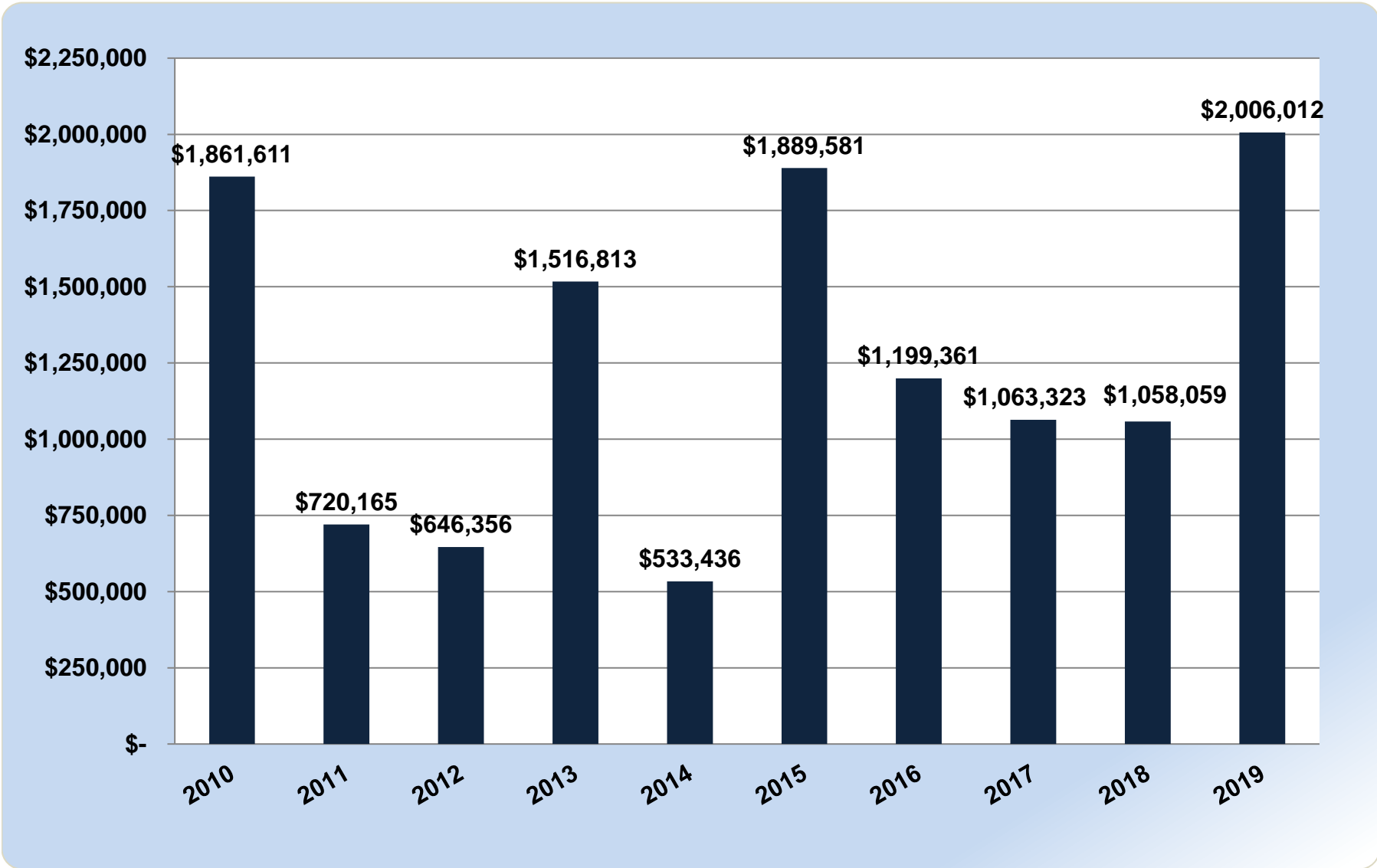
Claim #	GG/PS	Department/Job	DOL	Cov. Yr.	Status	Body Part	Description	Paid	Reserve	Total Incurred
WCWC-0731	PS	Police Department	10/15/09	2009-2010	O	MULTIPLE BODY PARTS	MISC; CUMULATIVE (NOC)	\$ 320,728	\$ 334,553	\$ 655,281
WCWC-0997	PS	Fire Department	01/05/15	2014-2015	O	MULTIPLE BODY PARTS	MISC; CUMULATIVE (NOC)	47,174	378,300	425,474
WCWC-0948	PS	Police Department	11/01/14	2014-2015	O	MULTIPLE BODY PARTS	MISC; PERSON IN ACT OF CRIME	236,945	149,851	386,796
WCWD-2471	PS	Police Department	09/04/18	2018-2019	O	MULTIPLE BODY PARTS	STRAIN; REPETITIVE MOTION	110,506	208,921	319,427
WCWC-0903	PS	Police Department	05/30/13	2012-2013	O	MULTIPLE BODY PARTS	MISC; OTHER - MISCELLANEOUS, NOC	265,324	46,450	311,774
WCWD-2426	PS	Fire Department	08/18/17	2017-2018	O	LOWER BACK AREA (INC.	STRAIN; PUSHING OR PULLING	223,251	71,745	294,996
WCWC-0901	PS	Police Department	05/15/13	2012-2013	C	MULTIPLE BODY PARTS	RUBBED; REPETITIVE MOTION	260,067	-	260,067
WCWC-0738	PS	Police Department	01/12/10	2009-2010	O	LUMBAR AND/OR SACRAL	STRAIN; STRAIN OR INJURY BY, NOC	225,501	16,910	242,411
WCWD-2367	PS	Police Department	06/06/16	2015-2016	O	MULTIPLE BODY PARTS	INJURED BY; FELLOW WORKER, PATIENT, STUD	167,952	73,696	241,648
WCWD-2461	PS	Police Department	05/23/18	2017-2018	O	UPPER ARM INCL. CLAVIC	INJURED BY; MOTOR VEHICLE	174,317	56,491	230,807
WCWC-0742	PS	Police Department	02/12/10	2009-2010	O	MULTIPLE BODY PARTS	MISC; OTHER THAN PHYSICAL CAUSE OF INJ.	136,679	65,756	202,435
WCWC-1006	GG	Public Works Department	04/01/15	2014-2015	O	HAND	INJURED BY; OBJECT HANDLED BY OTHERS	118,037	82,967	201,004
WCWD-2470	PS	Police Department	08/15/18	2018-2019	O	HAND	STRAIN; TWISTING	134,505	56,846	191,351
WCWC-2333	PS	Police Department	08/27/15	2015-2016	O	MULTIPLE BODY PARTS	MISC; CUMULATIVE (NOC)	152,746	13,076	165,822
WCWC-0828	PS	Police Department	09/23/11	2011-2012	O	SHOULDER(S)	MISC; OTHER - MISCELLANEOUS, NOC	127,607	35,208	162,815
WCWD-2468	PS	Police Department	08/09/18	2018-2019	O	EYE(S)	INJURED BY; ANIMAL OR INSECT	118,304	43,658	161,961
WCWC-0733	PS	Fire Department	11/10/09	2009-2010	C	SHOULDER(S)	CAUGHT; OBJECT HANDLED	158,663	-	158,663
WCWC-0910	PS	Fire Department	01/31/14	2013-2014	O	MULTIPLE BODY PARTS	MISC; CUMULATIVE (NOC)	93,070	54,837	147,907
WCWD-2352	PS	Police Department	02/09/16	2015-2016	O	HAND	INJURED BY; ANIMAL OR INSECT	103,852	42,981	146,832
WCWD-2445	PS	Police Department	11/01/17	2017-2018	O	LOWER BACK AREA (INC.	STRAIN; STRAIN OR INJURY BY, NOC	73,479	72,857	146,336
WCWC-0893	PS	Fire Department	03/07/13	2012-2013	O	KNEE	MISC; OTHER - MISCELLANEOUS, NOC	117,428	24,792	142,220
WCWD-2364	PS	Fire Department	05/27/16	2015-2016	O	KNEE	STRAIN; PUSHING OR PULLING	111,165	27,838	139,003
WCWD-2493	PS	Police Department	03/09/19	2018-2019	O	MULTIPLE BODY PARTS	VEHICLE; COLLIDE WITH OTHER VEHICLE	78,102	54,707	132,809
WCWD-2396	GG	Public Works Department	02/08/17	2016-2017	O	SHOULDER(S)	STRAIN; PUSHING OR PULLING	31,909	98,710	130,619
WCWD-2500	PS	Police Department	04/18/19	2018-2019	O	SHOULDER(S)	STRAIN; STRAIN OR INJURY BY, NOC	84,059	45,462	129,521
WCWC-1010	PS	Police Department	04/02/15	2014-2015	O	LUMBAR AND/OR SACRAL	MISC; CUMULATIVE (NOC)	67,425	61,519	128,944
WCWD-2373	GG	Public Works Department	08/18/16	2016-2017	O	LOWER LEG	MISC; CUMULATIVE (NOC)	72,773	48,389	121,162
WCWC-0889	PS	Fire Department	01/30/13	2012-2013	C	MULTIPLE BODY PARTS	STRAIN; LIFTING	120,144	-	120,144
WCWC-0855	PS	Police Department	05/07/12	2011-2012	C	KNEE	STRAIN; LIFTING	118,257	-	118,257
WCWC-1017	PS	Police Department	06/23/15	2014-2015	O	MULTIPLE BODY PARTS	STRAIN; STRAIN OR INJURY BY, NOC	87,865	28,473	116,338
WCWC-0944	PS	Fire Department	11/28/14	2014-2015	O	KNEE	STRAIN; STRAIN OR INJURY BY, NOC	97,871	11,471	109,342
WCWD-2508	PS	Police Department	05/20/19	2018-2019	O	LOWER LEG	STRAIN; STRAIN OR INJURY BY, NOC	63,921	44,979	108,900
WCWD-2339	PS	Fire Department	10/31/15	2015-2016	C	LOWER BACK AREA (INC.	STRAIN; LIFTING	107,040	-	107,040
WCWC-0747	PS	Fire Department	03/17/10	2009-2010	C	MULTIPLE BODY PARTS	RUBBED; REPETITIVE MOTION	106,041	-	106,041
WCWC-0746	PS	Police Department	03/13/10	2009-2010	C	WRIST	MISC; OTHER - MISCELLANEOUS, NOC	104,266	-	104,266

City of West Covina
 WC Frequency and Severity Stratification
 Consolidated: General Government and Public Safety

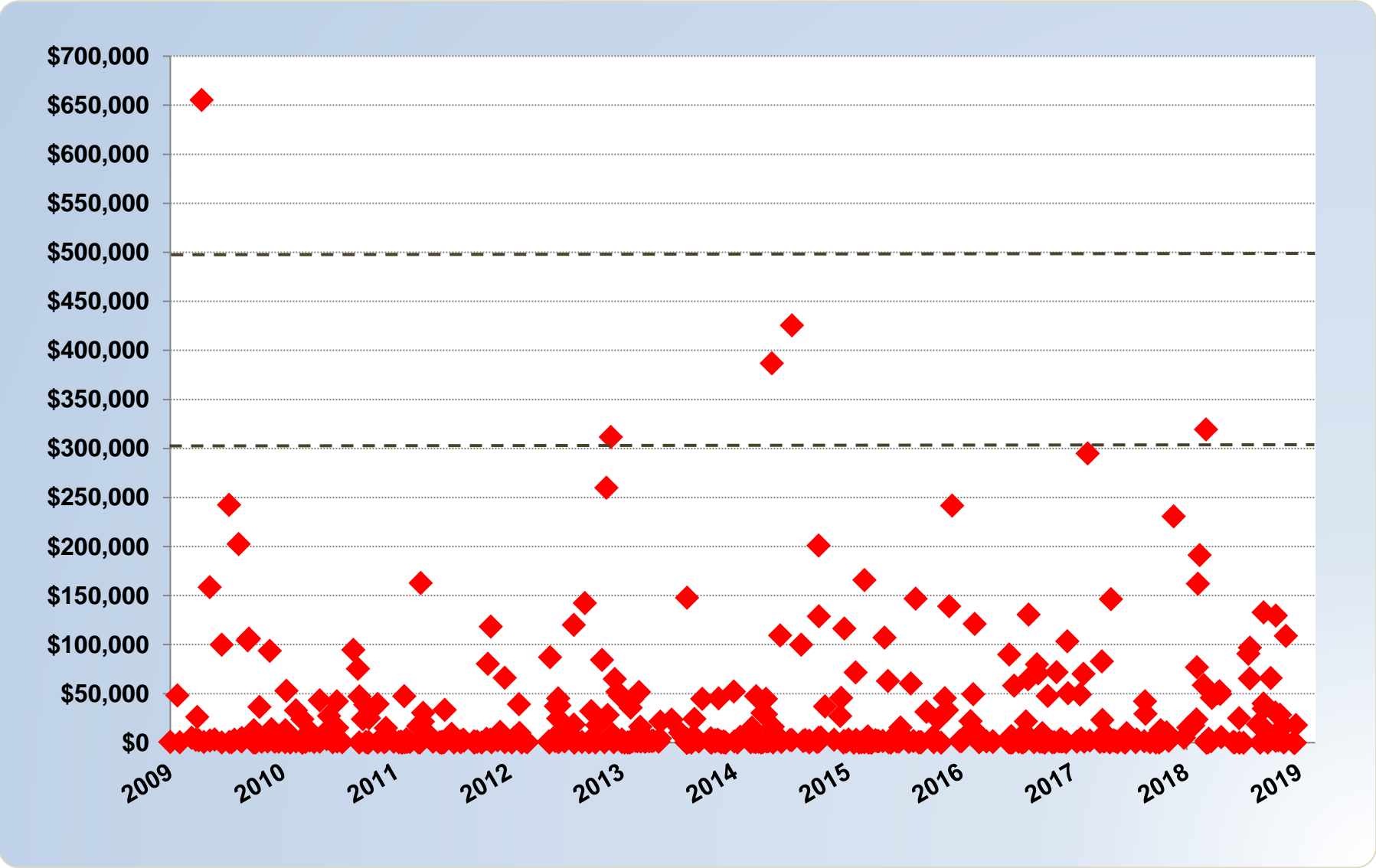
		Zero Value	Between \$1-\$250k	Between \$250k-\$500k	Between \$500k-\$750k	Between \$750k-\$1m	Between \$1m-\$1.5m	Between \$1.5m-\$2m	\$2m+	Total
FREQUENCY	1 2009-2010	-	41	-	1	-	-	-	-	42
	2 2010-2011	1	50	-	-	-	-	-	-	51
	3 2011-2012	-	48	-	-	-	-	-	-	48
	4 2012-2013	-	44	2	-	-	-	-	-	46
	5 2013-2014	-	56	-	-	-	-	-	-	56
	6 2014-2015	-	55	2	-	-	-	-	-	57
	7 2015-2016	1	48	-	-	-	-	-	-	49
	8 2016-2017	-	48	-	-	-	-	-	-	48
	9 2017-2018	-	39	1	-	-	-	-	-	40
	10 2018-2019	2	48	1	-	-	-	-	-	51
10 Year Avg		0.4	47.7	0.6	0.1	-	-	-	-	48.8
5 Year Avg		0.2	49.2	0.6	-	-	-	-	-	50.0
% in Layer		0.4%	98.4%	1.2%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%

		Zero Value	Between \$1-\$250k	Between \$250k-\$500k	Between \$500k-\$750k	Between \$750k-\$1m	Between \$1m-\$1.5m	Between \$1.5m-\$2m	\$2m+	Total
SEVERITY	1 2009-2010	-	\$ 1,456,330	\$ 250,000	\$ 155,281	\$ -	\$ -	\$ -	\$ -	\$ 1,861,611
	2 2010-2011	-	720,165	-	-	-	-	-	-	720,165
	3 2011-2012	-	646,356	-	-	-	-	-	-	646,356
	4 2012-2013	-	1,444,973	71,841	-	-	-	-	-	1,516,813
	5 2013-2014	-	533,436	-	-	-	-	-	-	533,436
	6 2014-2015	-	1,577,311	312,270	-	-	-	-	-	1,889,581
	7 2015-2016	-	1,199,361	-	-	-	-	-	-	1,199,361
	8 2016-2017	-	1,063,323	-	-	-	-	-	-	1,063,323
	9 2017-2018	-	1,013,063	44,996	-	-	-	-	-	1,058,059
	10 2018-2019	-	1,936,586	69,427	-	-	-	-	-	2,006,012
10 Year Avg		-	\$ 1,159,090	\$ 74,853	\$ 15,528	\$ -	\$ -	\$ -	\$ -	\$ 1,249,472
5 Year Avg		-	\$ 1,077,299	\$ 71,453	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,148,752
% in Layer			93.8%	6.2%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%

City of West Covina
Workers' Compensation Claim Bar Chart
Consolidated: General Government and Public Safety



City of West Covina
Workers' Compensation Claim Scattergram
Consolidated: General Government and Public Safety





Excess Workers' Compensation Program
 Covered Party: City of West Covina
 Coverage Term: 07/01/20 - 07/01/21
 Cost Indication Date: 2/25/20

Cost Indication

Optional Member Retained Limits (MRLs)							
	\$ 300k	\$ 400k	\$ 500k	\$ 750k	\$ 1m	\$ 1.5m	\$ 2m
Annual Contribution							
General Government	\$ 127,900	\$ 119,000	\$ 113,000	\$ 105,000	\$ 101,000	\$ 96,000	\$ 95,000
Public Safety	445,800	390,900	350,000	284,800	246,500	196,600	174,900
Total	\$ 573,700	\$ 509,900	\$ 463,000	\$ 389,800	\$ 347,500	\$ 292,600	\$ 269,900
MRL Discount %		-11%	-19%	-32%	-39%	-49%	-53%
MRL Discount \$		\$ (63,800)	\$ (110,700)	\$ (183,900)	\$ (226,200)	\$ (281,100)	\$ (303,800)
Rate per \$100 of Payroll							
General Government	\$ 0.98	\$ 0.91	\$ 0.86	\$ 0.80	\$ 0.77	\$ 0.73	\$ 0.72
Public Safety	1.92	1.68	1.51	1.23	1.06	0.85	0.75
Blended	1.58	1.40	1.27	1.07	0.96	0.81	0.74

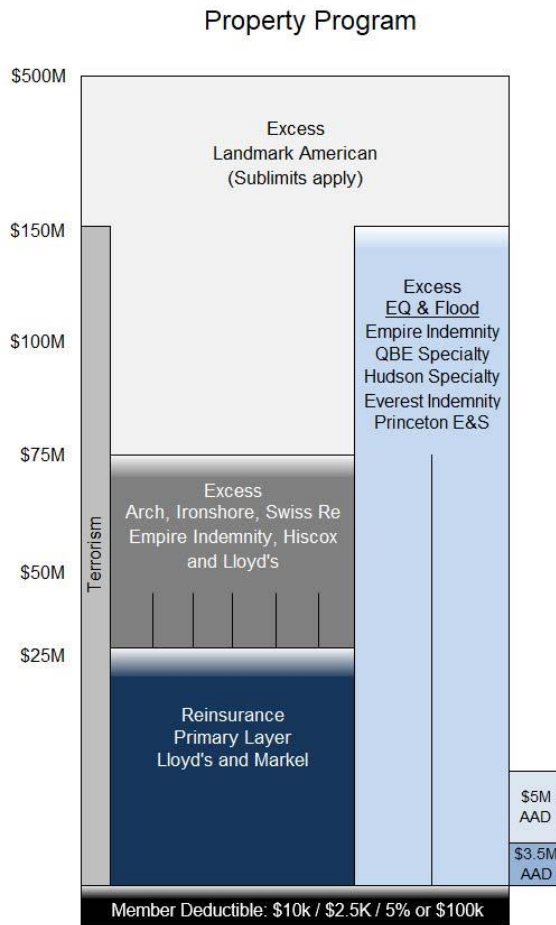
Note: This is a preliminary cost indication based on data submitted to the California JPIA, as well as written and verbal representations made by staff members of the government agency applying for membership. The amounts stated above may change, based on subsequent events, claim development, and new information regarding the risk profile of the applying agency, as it becomes available, up until the completion of the underwriting process. Claims administration fees are included in this cost indication, however the California state assessment is only included for the Primary Program (first dollar coverage).

Property Program



Program Description: The property program includes all-risk coverage for real and personal property, including buildings, office furniture and equipment, fine art, contractor's equipment, mobile and unlicensed equipment, vehicles, property of others while in the member's care, and buildings under construction. Optional coverage is available for earthquake and flood, high-value emergency vehicles, and mechanical breakdown.

Please refer to attached property program insurance summaries for detailed information on limits/coverage, sub-limits, and deductibles.



Cyber Liability Program



Program Description: The cyber liability program provides coverage for both first- and third-party claims. First-party coverage includes privacy regulatory claims, security breach response, business income loss, dependent business income loss, digital asset restoration costs, and cyber-extortion threats, while third-party coverage includes privacy liability, network security liability, and multimedia liability. Members work directly with the reinsurer to investigate and respond to claims.

Coverage: First-Party Claims

- Privacy regulatory claims
Coverage is provided for regulatory fines, consumer redress funds, and claim expenses that the member becomes legally obligated to pay as the result of a regulatory claim arising out of a privacy wrongful act.
- Security breach response
Coverage is provided for crisis management costs and breach response costs that the member incurs in the event of a security breach with respect to personal, non-public information of others (including employees).
- Business income loss
Coverage is provided to cover earnings loss and/or expenses loss resulting from a covered loss.
- Dependent business income loss
Coverage is provided to cover the lost income due to the shutdown/interruption of operations occurred at a “dependent” property, which is defined as any third party, other than a service provider, on whom the member depends for products and/or services required to conduct the member’s business.
- Digital asset restoration costs
Coverage is provided to cover the cost to recreate, rebuild or recollect digital assets defined as electronic data, including personally identifiable, non-public information, or computer software over which the member has direct control or for which such control has been contractually assigned by the member to a service provider.
- Cyber-extortion threat
Coverage is provided to cover the member for the loss resulting from a credible threat or connected series of threats to attack the member’s computer system/network made by someone other than the member.

Coverage: Third-Party Claims

- Privacy liability (including employee privacy)
Coverage is provided for damages and claim expenses that the member becomes legally obligated to pay as the result of a claim arising out of a privacy wrongful act, which harms any third party or employee.
- Network security liability
Coverage is provided for damages and claim expenses that the member becomes legally obligated to pay as the result of a security wrongful act.
- Multimedia liability
Coverage is provided for damages and claim expenses that the member becomes legally obligated to pay as the result of a multimedia wrongful act.

Cost: Included for all members.

Crime Coverage



Program Description: The California JPIA contracts with Alliant Insurance Services to administer this program.

Coverage: Coverage is provided for the following exposures.

- Faithful Performance
Employee dishonesty, including theft, and failure of any employee to faithfully perform their duties. Includes all employees, the agency treasurer, agency clerk and/or tax collector and any employee required by law to be individually bonded.
- Depositor's Forgery
Loss by forgery or alteration of, on or in any check, draft, promissory note or similar written promise, order or direction to pay money that is made or drawn upon the member's accounts, including credit, debit, or charge cards, by someone acting as the member's agent or that are purported to have been so made or drawn. This coverage protects you against forgery or alteration losses caused by a person other than an employee.
- Crime – money and securities
Covers loss of your money or securities by theft, disappearance or destruction while they are on your premises or on banking premises, or while your money or securities are outside your premises in the possession of a messenger. This coverage protects you from theft, robbery and safe burglary caused by persons other than an employee.
- Computer Fraud
Theft directly related to the use of any computer to fraudulently cause a transfer of money, securities or other property from inside the premises or banking premises to a person or place outside those premises.

Limits: \$1,000,000 to \$10,000,000 per Member (as selected by Member)

Deductible: \$2,500 per occurrence (optional \$25,000 per occurrence)

Risk Management



The Authority's risk management activities form the backbone in efforts to reduce pool claims. These programs have historically involved making valuable resources available to members. In 2006, the Authority initiated its Loss Control Action Plan (LossCAP) program as a means to work more closely in these efforts. The program uses a project management model to help members succeed in better managing risk.

Regional Risk Managers are responsible for developing and maintaining relationships between the members and the Authority. This responsibility includes consulting on complex issues of risk, facilitating and providing training, serving as a claims information liaison, presenting and explaining risk financing information, and promoting the Authority's LossCAP activities.

The LossCAP Program: The Loss Control Action Plan program is the Authority's strategic approach to working with members to reduce risk. The program's goal is to reduce the frequency and severity of claims through an integrated approach to managing a member's operational risk exposures. LossCAP features include risk management evaluations, council and board training, contractual risk transfer analysis, staff training, safety programs, employment intervention, and loss analysis.

LossCAP also supports the Authority's Healthy Member Protocol, which is essential to good governance and sound risk decisions at the member level. The Healthy Member Protocol sets forth the members' responsibilities for governing in a manner that is consistent with the Authority's values pertaining to the management of risk.

In addition to LossCAP, the Authority provides a number of risk management services to assist members in addressing their exposures.

ADA Assistance Program: The ADA Assistance Program is a member-wide program that provides technical and finance resources in order to help members achieve compliance with the Americans with Disabilities Act (ADA). The program is expected to be carried out for five years, with roughly 20% of the membership receiving assistance each of the program years. Funding for members through this program is provided in two broad areas: 1) ADA consulting services (from one of the Authority's strategic partners, Disability Access Consultants), and 2) ADA compliance tracking software (known as "DACTrak"). ADA consulting services include the diagnostic/assessment of ADA compliance, inspections of agency facilities and public rights of way, evaluation of programs and services, and assistance in the development of ADA transition plans. An ADA financing program (funding for either the development of an ADA transition plan or the removal of barriers) is currently under development by Authority staff and is planned to be rolled out to members in the near future.

Risk Technician Program: In order to fill the gap between the Authority's regional Risk Managers and member staff in working on critical loss control action items, the Authority funds the Risk Technician Program. This program provides for work to be done by one of the Authority's strategic partners, Poms and Associates. A Poms and Associates risk consultant collaborates with the member and the member's assigned Authority Risk Manager to engage in short-term assignments that are meant to address loss control action items. The scope of this program typically includes work in the context of policy writing and development, safety inspections, hazard assessments, safety meeting participation, and subject-matter analysis and expertise.

Sidewalk Inspection and Maintenance Program: Members have access to a master services agreement for sidewalk inspection and maintenance, negotiated between the Authority and Precision Concrete Cutting, a strategic partner. All work utilizing the master services

Risk Management



agreement must be arranged between the member and Precision Concrete Cutting, including any contract, insurance requirements, scope of work, and payment terms. The California Public Contract Code excludes maintenance work from bidding requirements related to public works projects. This means that general law agencies likely can forgo requiring bids for this work. As always, members are advised to consult with their agency attorney before proceeding to see if there are any restrictions or other requirements regarding the use of the master services agreement.

Lexipol: Lexipol provides policy and training solutions that help public safety agencies reduce risk and avoid litigation. The Authority funds the cost of a member's participation in the Law Enforcement Policy Manual Update and Daily Training Bulletin (DTB) subscriptions. As part of the program, members are responsible for publishing their policy manuals and continually ensuring that new policies (or policy updates) are reviewed and incorporated into the policy manual. Once members publish their policy manual, they are eligible to participate in the DTB subscription program. A member's eligibility to continue the Lexipol subscriptions at the Authority's expense is determined by the member's ability to stay up to date with the policies and trainings.

The Authority has long provided training to members as a way to support professional training and development, and the Authority believes training plays an important role in supporting risk management and good governance of members. For this reason, the majority of training opportunities are provided to members at no additional cost. Members are encouraged to take advantage of training in furtherance of creating a healthy, knowledgeable, and safe workforce. Ultimately, this means that training is essential in reducing claims experienced by the pool.

Approach to Training

The California JPIA believes in a multi-faceted approach to learning. We recognize the purpose of training differs. For this reason the Authority classifies training opportunities as follows: Regulatory, those that Cal-OSHA or other regulatory agencies require for our members to be in legal compliance with the law; Loss Driven, those that address pool losses; Best Practices, those that are considered best risk management practices; and Professional Development, those that enhance individual skills and better the organization.

Instructors

The California JPIA utilizes a pool of qualified subject-matter experts that understand the role of risk management in member operations. All instructors are selected and managed by the Authority, and they adhere to strict codes of instructional and behavioral standards.

Member-Specific Training Plan

We realize that all members are not the same. The Authority will work with each member to develop a living training plan that outlines requirements and recommendations for all member job functions.

Delivery Modes

The Authority recognizes the importance of training delivery by identifying which delivery mode provides the optimal learning environment, which includes factors such as training topic, distance, job function, and cost. Following are the various modes used by the Authority:

- Classroom Training
Classroom Training is delivered face-to-face by an instructor in a classroom-like setting.
- E-learning Training
E-learning Training is the presentation of on-demand training content via the Internet, meaning that it can be viewed anytime and anywhere.
- Webcast Training
Webcast Training originates from the California JPIA campus and is delivered through web-browser technology right to an employee's computer.
- Webinar Training
Webinar Training is carried out in an online meeting format directly between the instructor and the participant, and is viewed on any computer.

Academies

Academies are multi-day trainings that focus on various public sector disciplines, and use various instructors for presenting the academy content.

- Executive Academy - No cost to members
- Human Resources Academy
- Leadership Academy
- Management Academy
- Newly Elected Officials Academy - No cost to members
- Parks and Recreation Academy
- Public Works Academy - No cost to members
- Risk Management Academy

Risk Management Educational Forum

The Educational Forum is a multi-day training that focuses on issues important to members of the pool and associated public-sector disciplines. Registration is no cost to members.

Training Workshops

Following is a brief listing of training workshops offered by the Authority. All workshops are no cost to members.

- Workplace Harassment
- Handling Diversity in the Workplace
- Dealing Successfully with Customers
- Safe Workplaces
- Team Building and Team Communication
- Improving Employee Performance and Dealing with Unacceptable Employee Behavior
- Conflict Resolution: Helping Employees Get Along
- Contractual Risk Transfer and Insurance Review
- Insurance 101
- Police Civil Liability: A Survival Guide
- Investigating Claims and Preserving Evidence
- Ergonomics - Field and Transit Personnel
- Ergonomics - Office Personnel
- CPR/AED/First-Aid Safety
- OSHA Recordkeeping
- Backhoe Operator Training
- Confined Space
- Traffic Control and Flagging Safety
- Respirator Certification
- Playground Safety
- Hearing Conservation / Heat Stress



*Providing innovative risk management solutions
for our public agency partners*

**JOINT POWERS AGREEMENT
CALIFORNIA JOINT POWERS INSURANCE
AUTHORITY**

AMENDED JULY 17, 2019

INTEGRITY

EXCELLENCE

INNOVATION

TEAMWORK

TABLE OF CONTENTS

ARTICLE 1 - DEFINITIONS	2
ARTICLE 2 - PURPOSES	3
ARTICLE 3 - PARTIES TO AGREEMENT.....	4
ARTICLE 4 - TERM OF AGREEMENT	4
ARTICLE 5 - CREATION OF AUTHORITY	4
ARTICLE 6 - POWERS OF AUTHORITY	4
ARTICLE 7 - BOARD OF DIRECTORS	5
ARTICLE 8 - POWERS OF THE BOARD OF DIRECTORS	5
ARTICLE 9 - MEETINGS OF THE BOARD OF DIRECTORS.....	6
ARTICLE 10 - EXECUTIVE COMMITTEE	6
ARTICLE 11 - POWERS OF THE EXECUTIVE COMMITTEE	6
ARTICLE 12 - MEETINGS OF THE EXECUTIVE COMMITTEE	7
ARTICLE 13 - CLAIMS COMMITTEE	8
ARTICLE 14 - OFFICERS OF THE AUTHORITY	8
ARTICLE 15 - ADVISORY COMMITTEES.....	9
ARTICLE 16 - COVERAGE.....	9
ARTICLE 17 - DEVELOPMENT OF THE JOINT PROTECTION PROGRAMS.....	9
ARTICLE 18 - ACCOUNTS AND RECORDS	10
ARTICLE 19 - RESPONSIBILITY FOR MONIES	11
ARTICLE 20 - RESPONSIBILITIES OF THE AUTHORITY	11
ARTICLE 21 - RESPONSIBILITIES OF MEMBERS	12
ARTICLE 22 - NEW MEMBERS.....	13
ARTICLE 23 - PROGRAM PARTICIPATION	14
ARTICLE 24 - WITHDRAWAL	15
ARTICLE 25 - EFFECT OF WITHDRAWAL	15
ARTICLE 26 - CANCELLATION OF PROGRAM PARTICIPATION.....	16
ARTICLE 27 - CANCELLATION OF MEMBERSHIP	16
ARTICLE 28 - CANCELLATION FOR NON-PAYMENT.....	16
ARTICLE 29 - ATTORNEY FEES AND COSTS OF COLLECTION	17
ARTICLE 30 - TERMINATION AND DISTRIBUTION	17
ARTICLE 31 - PROVISION FOR BYLAWS.....	18
ARTICLE 32 - NOTICES.....	18
ARTICLE 33 – PROVISION FOR MAILED BALLOTS	18
ARTICLE 34 - AMENDMENT.....	19
ARTICLE 35 - PROHIBITION AGAINST ASSIGNMENT	19
ARTICLE 36 - AGREEMENT COMPLETE.....	19

JOINT POWERS AGREEMENT

CREATING THE CALIFORNIA

JOINT POWERS INSURANCE AUTHORITY

THIS AGREEMENT is made and entered into by and among the public entities organized and existing under the Constitution or laws of the State of California, hereinafter collectively referred to as “Members” and individually as “Member,” that are parties signatory to this Agreement. Said Members are sometimes referred to herein as “parties.”

RECITALS:

WHEREAS, California Government Code Section 6500 et seq. provides that two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, California Government Code Section 990.4 provides that a local public entity may self-insure, purchase insurance through an authorized carrier, or purchase insurance through a surplus line broker, or any combination of these; and

WHEREAS, California Government Code Section 990.8 provides that two or more local public entities may, by a joint powers agreement, provide insurance for any purpose by any one or more of the methods specified in Government Code Section 990.4; and

WHEREAS, each of the parties to this Agreement desires to join together with the other parties for the purpose of pooling their self-insured losses and jointly purchasing excess insurance and administrative services in connection with one or more joint protection programs for said parties; and

WHEREAS, it appears economically feasible and practical for the parties to this Agreement to do so;

NOW, THEREFORE, for and in consideration of all of the mutual benefits, covenants and agreements contained herein, the parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

The following definitions shall apply to the provisions of this Agreement:

- (a) “Advisory Committee” shall mean the Managers Committee, Finance Officers Committee, Risk Managers Committee and any other committee created by the Board of Directors or Executive Committee for the purpose of providing specialized advice to the Board of Directors or Executive Committee on the subject matter brought before it.
- (b) “Alternate” shall mean that person or persons selected by the legislative body of each Member to represent the Member at the Board of Directors meeting in the absence of the Director, pursuant to Article 7 of this Agreement.
- (c) “Authority” shall mean the California Joint Powers Insurance Authority created by this Agreement.
- (d) “Board of Directors” or “Board” shall mean the governing body of the Authority.
- (e) “Chief Executive Officer” shall mean that employee of the Authority who is appointed by the Executive Committee, and is granted authority and responsibility for the management and administration of the Authority and its joint protection programs.
- (f) “Claims” shall mean demands made against the Authority, a Member, or Members arising out of occurrences that are within an Authority joint protection program as developed by the Executive Committee.
- (g) “Contribution” shall mean an amount determined by the Executive Committee that is to be paid by the Member as its established share of funding required to cover the financial obligations of each joint protection program in which the member participates.
- (h) “Director” shall mean that person selected by and from the legislative body of each Member to represent the Member on the Board of Directors pursuant to Article 7 of this Agreement.
- (i) “Executive Committee” shall mean the Executive Committee of the Board of Directors of the Authority.
- (j) “Finance Officers Committee” shall mean the committee of the Authority composed of the Finance Directors or chief finance officers of the Members by whatever title locally designated.
- (k) “Fiscal Year” shall mean that period of twelve months that is established as the fiscal year of the Authority.

(l) “Insurance” shall mean and include pooled self-insurance through a funded program and/or any commercial insurance, excess insurance, or reinsurance contract purchased on behalf of the Authority to protect the funds of the Authority against catastrophes or an unusual frequency of losses during a specific protection period.

(m) “Managers Committee” shall mean the committee of the Authority composed of the City Managers, City Administrators, or chief executive officers of the Members by whatever title locally designated.

(n) “Risk Managers Committee” shall mean the committee of the Authority composed of the Risk Managers or risk officers of the Members by whatever title locally designated.

(o) “Secretary” shall mean the person selected by the Executive Committee from among its members to serve as Secretary of the Authority.

(p) “Treasurer” shall mean the person selected by the Executive Committee to serve as Treasurer of the Authority.

ARTICLE 2 - PURPOSES

This agreement is entered into by the Members pursuant to the provisions of California Government Code Sections 990, 990.4, 990.8, and 6500 et seq. in order to provide more comprehensive and economical protection from financial loss, to reduce the amount and frequency of their losses, and to decrease the cost incurred in the handling and litigation of claims. This purpose shall be accomplished through the exercise of the powers of the Members jointly in the creation of a separate entity, the California Joint Powers Insurance Authority (the Authority), to administer joint protection programs wherein Members will pool their losses and claims, jointly purchase insurance and administrative and other services, including claims adjusting, data processing, risk management consulting, loss prevention, training, legal, and related services.

It is also the purpose of this Agreement to provide, to the extent permitted by law, for the inclusion at a subsequent date of such additional public entities organized and existing under the Constitution or laws of the State of California as may desire to become parties to this Agreement.

ARTICLE 3 - PARTIES TO AGREEMENT

Each party to this Agreement certifies that it intends to and does contract with all other parties who are signatories of this Agreement and, in addition, with such other parties as may later be added as parties to and signatories of this Agreement pursuant to Article 22. Each party to this Agreement also certifies that the deletion of any party from this Agreement, pursuant to Articles 24, 26, 27, or 28 shall not affect this Agreement nor such party's intent to contract as described above with the other parties to the Agreement then remaining.

ARTICLE 4 - TERM OF AGREEMENT

This Agreement became effective on June 29, 1977, and shall continue until and unless terminated as hereinafter provided.

ARTICLE 5 - CREATION OF AUTHORITY

Pursuant to Section 6500 et seq. of the California Government Code, there is hereby created a public entity separate and apart from the parties hereto, to be known as the California Joint Powers Insurance Authority. Pursuant to Government Code Section 6508.1, the debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of any party to this Agreement; except with respect to public retirement system liabilities, which shall be governed by Sections 6508.1 and 6508.2.

ARTICLE 6 - POWERS OF AUTHORITY

(a) The Authority shall have the powers common to its Members and is hereby authorized to do all acts necessary for the exercise of said common powers, including, but not limited to, any or all of the following:

1. To make and enter into contracts;
2. To incur debts, liabilities or obligations;
3. To acquire, hold or dispose of property, contributions and donations of property, funds, services and other forms of assistance from persons, firms, corporations and governmental entities;
4. To sue and be sued in its own name; and
5. To exercise all powers necessary and proper to carry out the terms and provisions of this Agreement, or otherwise authorized by law.

(b) Said powers shall be exercised pursuant to the terms hereof and in the manner provided by law and are subject to the restrictions upon the manner of exercising the powers of the City of Lakewood.

ARTICLE 7 - BOARD OF DIRECTORS

(a) The Authority shall be governed by the Board of Directors that is hereby established and that shall be composed of one representative Director from each Member, who shall be selected from the legislative body of that Member by the process chosen by the Member.

(b) Each legislative body, in addition to appointing its Director of the Board, shall appoint at least one alternate who shall be an officer or employee of the Member. The alternate shall have the authority to attend, participate in, and vote at any meeting of the Board when the regular Director for whom he or she is an alternate is absent from said meeting.

ARTICLE 8 - POWERS OF THE BOARD OF DIRECTORS

The Board of Directors of the Authority shall have the following powers and functions:

(a) The Board shall elect from its members pursuant to Article 10 of this Agreement an Executive Committee, to which it may give authority to make and implement any decisions, including those involving the administration of the Authority, except those decisions that would require an amendment of this Agreement, under Article 34 herein.

(a) The Board shall adopt the operating budget of the Authority.

(b) The Board may review all acts of the Executive Committee, including development of the memoranda of coverage, and shall have the power to modify and/or override any decision or action of the Executive Committee upon a majority vote of a quorum of the Board of Directors.

(c) The Board shall receive and review periodic accountings of all funds under Articles 18 and 19 of this Agreement.

(d) The Board shall have the power to conduct on behalf of the Authority all business of the Authority, including that assigned to the Executive Committee, that the Authority may conduct under the provisions hereof and pursuant to law.

(e) The Board shall have such other powers and functions as are provided for in this Agreement.

(f) The Board shall not have the power to overturn the decisions of the Claims Committee in regard to the settlement of claims.

ARTICLE 9 - MEETINGS OF THE BOARD OF DIRECTORS

(a) Meetings. The Board shall provide for its regular, adjourned regular, and special meetings; provided, however, that it shall hold at least one regular meeting annually at a time and place determined by the Executive Committee.

(b) Minutes. The Secretary of the Authority shall cause minutes of regular, adjourned regular, and special meetings to be kept and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Board.

(c) Quorum. A majority of the Directors or Alternates of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time. A vote of the majority of those Directors or Alternates present at a meeting shall be sufficient to constitute action by the Board.

(d) Compliance with the Brown Act. All meetings of the Board, including, without limitation, regular, adjourned regular, and special meetings, shall be called, noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act, California Government Code Section 54950 et seq.

ARTICLE 10 - EXECUTIVE COMMITTEE

There shall be an Executive Committee of the Board of Directors that shall consist of nine (9) members. Two of the members of the Executive Committee shall be the President and Vice President of the Board of Directors. The other members of the Executive Committee shall be elected by the Board of Directors at the Annual Meeting for the terms provided in the Bylaws. The President of the Authority, or the Vice President in his or her absence, shall serve as the Chairperson of the Executive Committee.

ARTICLE 11 - POWERS OF THE EXECUTIVE COMMITTEE

The Executive Committee of the Board of Directors shall have the following powers:

(a) The Executive Committee shall determine and select joint protection programs for the Authority including adoption of language of the Memoranda of Coverage and any limitations or endorsements to such Memoranda.

- (b) The Executive Committee shall determine and select all insurance necessary to carry out the joint protection programs of the Authority.
- (c) The Executive Committee shall have the authority to approve membership in the Authority and Member participation in one or more joint protection programs in accordance with Articles 22 and 23.
- (d) The Executive Committee shall have the authority to cancel Member participation in one or more joint protection programs in accordance with Articles 26 and 28.
- (e) The Executive Committee shall develop the operating budget of the Authority.
- (f) The Executive Committee shall have authority to contract for or develop various services for the Authority, including, but not limited to, claims adjusting, loss control, and risk management consulting services.
- (g) The Executive Committee shall receive and act upon reports of the Advisory Committees and the Chief Executive Officer.
- (h) The Executive Committee shall appoint the Treasurer and Chief Executive Officer of the Authority.
- (i) The Executive Committee shall have the power to hire such persons as the Executive Committee deems necessary for the administration of the Authority.
- (j) The Executive Committee shall have the general supervisory and policy control over the day-to-day decisions and administrative activities of the Chief Executive Officer of the Authority.
- (k) The Executive Committee shall have such other powers and functions as are provided for in this Agreement or as delegated by the Board of Directors, including the power to create committees it deems necessary.

ARTICLE 12 - MEETINGS OF THE EXECUTIVE COMMITTEE

The meetings of the Executive Committee shall be held and conducted in the same manner as the meetings of the Board of Directors, provided for in Article 9 of this Agreement. In addition, the Committee shall make periodic reports to the Board of Directors, advising the Board of its decisions and activities concerning the implementation of the joint protection programs of the Authority.

ARTICLE 13 - CLAIMS COMMITTEE

The Executive Committee members, together with the Chairs of the Managers Committee and the Finance Officers Committee, shall sit as the Claims Committee of the Authority. The Claims Committee shall have authority to make all determinations regarding defense, indemnity, and settlement of claims under the Memoranda of Coverage. Decisions of the Claims Committee regarding settlement of claims shall be final and not subject to further review. Decisions regarding coverage for defense or indemnity of claims shall be final, but subject to the Member's appeal rights as detailed in the applicable Memorandum of Coverage.

ARTICLE 14 - OFFICERS OF THE AUTHORITY

(a) President and Vice President. The Board shall elect a President and Vice President of the Authority, each to hold office for a two-year term, except as hereinafter provided, and until a successor is elected. The election of the President and Vice President shall be on alternate years. In the event the President so elected ceases to be a member of the Board, or for other reasons is unable to serve, the Vice President shall assume the position of President and serve the remainder of the prior President's unexpired term. In the event the Vice President so elected ceases to be a member of the Board, or for other reasons is unable to serve, the Executive Committee shall select from among its membership a new Vice President who shall serve the remainder of the unexpired term.

(b) Chief Executive Officer. The Chief Executive Officer shall be authorized and responsible for the overall management and administration of the Authority and its joint protection programs and shall select and appoint all employees.

(c) Secretary. The Secretary shall be responsible for all minutes, notices and records of the Authority and shall perform such other duties as may be assigned by the Executive Committee.

(d) Treasurer. The duties of the Treasurer are set forth in Articles 18 and 19 of this Agreement.

(e) Attorney. The Executive Committee shall select an attorney for the Authority. The attorney shall serve at the pleasure of the Executive Committee.

(f) The Executive Committee shall have the power to appoint such other officers as may be necessary in order to carry out the purposes of this Agreement.

ARTICLE 15 - ADVISORY COMMITTEES

The Board of Directors or Executive Committee may establish Advisory Committees as deemed necessary. Such Committees shall meet from time to time as deemed necessary by them, and shall make recommendations to the Executive Committee based upon their expertise.

ARTICLE 16 - COVERAGE

(a) The coverage provided for Members through the Authority's joint protection programs may include protection for Personal Injury, Errors and Omissions, Contractual and Comprehensive Liability, Workers' Compensation and such other areas of coverage as the Executive Committee may determine. Such coverage may be through insurance as defined in Article 1.

(b) The Authority shall maintain limits of coverage for Members determined by the Executive Committee to be adequate. The Executive Committee may arrange for a group policy to be issued for Members interested in obtaining additional coverage above the limits of coverage at an additional cost to those participating Members.

(c) The Executive Committee shall arrange for the purchase of insurance it deems necessary to protect the funds of the Authority against catastrophes. The Executive Committee shall have the authority to discontinue purchase of this insurance, if at a future time the Executive Committee determines that it is no longer needed to protect the Authority's funds.

ARTICLE 17 - DEVELOPMENT OF THE JOINT PROTECTION PROGRAMS

(a) The joint protection programs provided by the Authority shall extend to agencies or authorities as determined in the Memorandum of Coverage of each program.

(b) The cost allocation formula for each joint protection program shall be adopted by the Executive Committee.

(c) The contribution for each Member's participation in a joint protection program shall be determined by the Executive Committee.

(d) The cost allocation formula adopted by the Executive Committee for each joint protection program may provide for retrospective adjustments, and each Member shall pay any additional contribution required by such retrospective adjustment.

(e) The Executive Committee may provide for payment of a portion of such contributions to be made over a period of time on terms set by the Executive Committee.

(f) The Executive Committee may expand the Authority's offerings of joint protection programs to make available for Members' protection in addition to that which is provided for in this Agreement.

(g) Contributions held by the Authority for each joint protection program shall be accounted for separately, so that only Members participating in the program will share in pooled losses and expenses of that program. This separate accounting shall not prohibit the Authority from commingling contributions for purposes of investment, nor from paying losses or expenses when due from all available funds. As deemed appropriate, the Executive Committee may provide for inter-program transfers in the forms of loans, letters of credit, or other financial arrangements that stipulate that the lending program will be made whole by the borrowing program through the timely repayment of principal and compensation for the value of lost investment earnings during the financing period.

ARTICLE 18 - ACCOUNTS AND RECORDS

(a) Budget. The Authority shall adopt an operating budget, pursuant to Article 11(e) of this Agreement.

(b) Funds and Accounts. The Treasurer of the Authority shall establish and maintain such funds and accounts as may be required by good accounting practice or by the Executive Committee. Books and records of the Authority in the hands of the Treasurer shall be open to any inspection at all reasonable times by representatives of a Member.

(c) Treasurer's Report. The Treasurer, within 270 days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to the Board and to each Member.

(d) Annual Audit. The Executive Committee shall provide for a certified, annual audit of the accounts and records of the Authority. The audit shall conform to generally accepted auditing standards. When such an audit of the accounts and records is made by a Certified Public Accountant, a report thereof shall be filed as a public record with each of the Members. Such report shall be filed within nine months of the end of the year under examination.

(e) Costs. Any costs of the audit, including contracts with, or employment of, Certified Public Accountants, in making an audit pursuant to this Article, shall be borne by the Authority and shall be considered included within the term “administrative costs.”

ARTICLE 19 - RESPONSIBILITY FOR MONIES

(a) The Treasurer of the Authority shall have the custody of and disburse the Authority's funds. He or she shall have the authority to delegate the signatory function of Treasurer to such persons as are authorized by the Executive Committee.

(b) A bond or other insurance protection providing coverage for embezzlement or other criminal acts in an amount determined by the Executive Committee to be adequate shall be required of all officers and personnel authorized to disburse funds of the Authority. The cost of such bond or insurance protection shall be paid for by the Authority.

(c) The Treasurer of the Authority shall perform the duties described in California Government Code Sections 6505.5 and 6505.6 pertaining to the receipt, safekeeping, payment, and reporting of Authority funds.

ARTICLE 20 - RESPONSIBILITIES OF THE AUTHORITY

The Authority shall perform the following functions in discharging its responsibilities under this Agreement:

(a) Provide loss protection as necessary, through various means including but not limited to insurance or other financial risk transfer, by negotiation or bid and purchase.

(b) Assist Members in obtaining coverage for risks not included within the joint protection programs of the Authority.

(c) Assist each Member's assigned risk manager with the implementation of that function within the Member.

(d) Provide loss prevention and safety and consulting services to Members as required, which may include programs for grants or loans to Members for loss prevention or safety purposes.

(e) Provide claims adjusting and subrogation services for claims covered by the Authority's joint protection programs.

(f) Provide loss control and analysis by the use of statistical analysis, data processing, and record and file keeping services, in order to identify high exposure operations and to evaluate proper levels of self-retention and deductibles.

(g) Provide contract review when requested by Members to determine sufficiency of indemnity and insurance provisions.

(h) Conduct risk management evaluations of each Member to encourage implementation of best risk management practices.

(i) The Authority shall have standing and shall pursue recovery in its own name or in the name of a Member for losses covered by a joint protection program. Such recovery may be through subrogation, cross complaint, or salvage, as appropriate.

(j) The Authority shall have such other responsibilities as deemed necessary by the Board of Directors or Executive Committee in order to carry out the purposes of this Agreement.

ARTICLE 21 - RESPONSIBILITIES OF MEMBERS

Members shall have the following responsibilities:

(a) The legislative body of each Member shall appoint a representative and at least one alternate representative to the Board of Directors, pursuant to Article 7 of this Agreement.

(b) Each Member shall appoint an employee to be responsible for the risk management function of that Member, and to serve as a liaison between the Member and the Authority as to risk management.

(c) Each Member shall maintain an active safety officer and/or committee, and shall consider all recommendations of the Authority concerning unsafe practices or exposures.

(d) Each Member shall pay its contribution and any retrospective adjustment promptly to the Authority when due. After withdrawal or termination, each Member shall pay promptly to the Authority its share of any additional contribution, when and if required of it by the Executive Committee under Articles 24, 25, 26, 27, and 28 of this Agreement.

(e) Each Member shall report all claims to the Authority in accordance with the policies and procedures governing the joint protection program to which the claim applies.

(f) Each Member shall provide the Authority with such other information or assistance as may be necessary for the Authority to carry out the joint protection programs under this Agreement.

(g) Each Member shall cooperate with and assist the Authority in the pursuit of recoveries for losses covered by a joint protection program, including assigning its right to recover subrogated amounts, and if necessary, executing a written agreement to effect such assignment.

(h) Each Member shall in any and all ways cooperate with and assist the Authority, and any insurer of a joint protection program, in all matters relating to this Agreement and covered losses, and will comply with all bylaws, rules and regulations adopted by the Board of Directors and Executive Committee.

(i) Each Member shall actively participate in the Authority's Risk Management Evaluation and Loss Control Action Plan (LossCAP) programs.

ARTICLE 22 - NEW MEMBERS

The Authority shall allow entry of new Members approved by the Executive Committee.

(a) Executive Committee approval for new Members shall be according to the following procedure:

1. Investigation of each potential member by Authority staff and preparation of a report;
2. Review of the report by the Underwriting Committee, which shall then be forwarded to all Directors for review and comment;
3. Review by the Directors and submittal of comments to the Chief Executive Officer during the comment period; and
4. Approval by a two-thirds vote of the Executive Committee.

(b) Membership is effective immediately upon approval by the Executive Committee and execution of this Agreement by the new Member to join the Authority.

(c) A Member entering under this Article may be required to pay its share of organization expenses as determined by the Executive Committee including those necessary to analyze its loss data and determine its contributions.

(d) Should the Board of Directors rescind the membership approval made by the Executive Committee pursuant to Article 8(b), the Member shall be given at least ninety days advance notice of the effective date of termination of Membership, and the Member shall be

treated as if it had withdrawn on the effective date, and shall have the same responsibilities as if the Member had voluntarily withdrawn on the effective date.

(e) New Members, accepted into membership after July 1, 2016, shall have provisional membership status throughout the initial five years of membership. During the provisional membership period:

1. The Authority reserves the right to retrospectively adjust the cost of coverage for provisional Members based on actual claims development, in the event that it varies materially from claims data provided to the Authority at the time of the initial underwriting; and
2. The Authority reserves the right to terminate membership of any provisional Member at the end of a protection period, with or without cause, by a two-thirds vote of the Executive Committee, provided the Executive Committee gives the provisional Member at least ninety days advance notice of the effective date of the termination of membership.
3. A provisional Member subject to termination under Paragraph 2, above, may appeal said termination to a panel of five chief executives randomly selected from the other Members.

(f) If a provisional Member does not complete five successive years of membership in good standing, due to withdrawal or termination, that provisional Member is not eligible to receive in any refunds, dividends, or equity distributions that may occur during the provisional membership period or at any time thereafter.

ARTICLE 23 - PROGRAM PARTICIPATION

The Authority shall allow for the participation of Members in the joint protection programs as approved by the Executive Committee.

(a) Executive Committee approval for new Members shall be according to the following procedure:

1. Investigation of a potential participant by Authority staff and preparation of a report;
2. Consideration of the report by the Underwriting Committee with a recommendation to the Executive Committee; and

3. Approval by a two-thirds vote of the Executive Committee,
- (b) Program participation is effective immediately upon approval by the Executive Committee and execution of appropriate resolutions and/or other documents by the new participant allowing participation in the joint protection program.
 - (c) A Member entering into a joint protection program may be required to pay its share of program development expenses as determined by the Executive Committee including those necessary to analyze its loss data and determine its contributions.
 - (d) Should the Board of Directors rescind the program participation approval made by the Executive Committee pursuant to Article 8(b), the Member shall be given at least ninety days advance notice of the effective date of termination of program participation, and the Member shall be treated as if it had withdrawn on the effective date, and shall have the same responsibilities as if the Member had voluntarily withdrawn on the effective date.

ARTICLE 24 - WITHDRAWAL

- (a) A Member that enters into this Agreement may not withdraw as a party to this Agreement and as a Member of the Authority for a three-year period commencing on the effective date of its membership.
- (b) A Member that enters into a joint protection program may not withdraw as a participant in that program for a three-year period commencing on the effective date of its participation in the joint protection program.
- (c) After the initial three-year non-cancellable commitment to membership in the Authority or participation in a joint protection program, a Member may withdraw only at the end of any protection period, provided it has given the Authority a twelve-month written notice of its intent to withdraw from this Agreement and/or any joint protection programs in which it participates.

ARTICLE 25 - EFFECT OF WITHDRAWAL

- (a) The withdrawal of any Member from this Agreement shall not terminate the Agreement, and no Member by withdrawing shall be entitled to payment or return of any deposits, contributions, consideration or property paid, or donated by the Member to the Authority, or to any distribution of assets.

(b) The withdrawal of any Member from participation in a joint protection program shall not terminate the Member's responsibility to contribute its share of contributions or funds to the program until all claims, or other unpaid liabilities, covering the period the Member was signatory hereto have been finally resolved and a determination of the final amount of payments due from the Member or credits to the Member for the period of its participation has been made by the Executive Committee. In connection with this determination, the Executive Committee may exercise similar powers to those provided for in the Article 30(c) of this Agreement.

ARTICLE 26 - CANCELLATION OF PROGRAM PARTICIPATION

The Executive Committee shall have the right to cancel any Member's participation in one or more joint protection programs upon the recommendation of the Chief Executive Officer and in accordance with the Healthy Members Practices and Procedures protocol. Any Member so cancelled shall on the effective date of the cancellation be treated the same and shall have the same responsibilities as if the Member had voluntarily withdrawn from the joint protection program.

ARTICLE 27 - CANCELLATION OF MEMBERSHIP

The Board of Directors shall have the right to cancel the membership of any Member based upon a three-fourths vote of the entire Board of Directors. Any Member so cancelled shall on the effective date of the cancellation be treated the same as if the Member had voluntarily withdrawn from membership, and said Member shall have the same responsibilities. Cancellation, as specified above, shall be within the sole discretion of the Board of Directors and may occur with or without cause, and the Board's discretion shall not be subject to any further review or appeal.

ARTICLE 28 - CANCELLATION FOR NON-PAYMENT

In the absence of a payment plan as authorized in Article 17(e), any Member's participation in a joint protection program may be cancelled automatically in the event of a failure of the Member to pay any contribution as required in this Agreement. Should any contribution remain unpaid more than thirty (30) days after receipt of notice by the Member, the Authority will send a notice advising the Member that it is in default under the terms of this Agreement, and that the Member's participation will be cancelled within thirty (30) additional

days unless full payment is received. Failure to make full payment as required in the notice of default shall be considered a withdrawal by the Member from the program effective on the date of cancellation specified in the notice of default; and no coverage shall apply to any claims submitted subsequent to the effective date of cancellation that arise from occurrences taking place during the current protection period. A Member cancelled for non-payment shall remain liable for a prorated share of the current year's contribution and for all retrospective adjustment contributions through the date of cancellation and attributable to prior years of coverage in which it participated.

ARTICLE 29 - ATTORNEY FEES AND COSTS OF COLLECTION

Should any Member or former Member fail to pay any contribution or retrospective adjustment contribution when due, the Member shall also be liable to the Authority for attorney fees and costs incurred by the Authority in pursuing collection of such sums.

ARTICLE 30 - TERMINATION AND DISTRIBUTION

(a) This Agreement may be terminated by the written consent of three-fourths of the Members; provided, however, that this Agreement and the Authority shall continue to exist for the purpose of disposing of all claims, distribution of assets and all other functions necessary to wind up the affairs of the Authority.

(b) Upon termination of this Agreement, all assets of the Authority shall be distributed only among the parties that have been Members of a joint protection program, including any of those parties that previously withdrew pursuant to Article 24 of this Agreement, in accordance with and proportionate to their cash (including contributions) payments and property (at market value when received) contributions made reduced by their share of losses and expenses paid during the term of this Agreement. The Executive Committee shall determine such distribution within six months after the last pending claim or loss covered by this Agreement has been finally disposed of.

(c) The Executive Committee is vested with all powers of the Authority for the purpose of winding up and dissolving the business affairs of the Authority. These powers shall include the power to require Members, including those that were Members at the time a claim arose or at the time a loss was incurred, to pay their share of any additional amount of

contribution deemed necessary by the Executive Committee for final disposition of all claims and losses covered by this Agreement. A Member's share of such additional contributions shall be determined on the same basis as that provided for annual contributions in Article 17 of this Agreement, and shall be treated as if it were the next year's annual contribution for that Member.

(d) In the absence of an Executive Committee, the Secretary shall exercise all powers and authority under this Article. The decision of the Executive Committee or Secretary under this Article shall be final.

(e) A provisional Member that does not complete five years of membership pursuant to Article 22 shall not be entitled to any distribution of assets upon termination of this Agreement.

ARTICLE 31 - PROVISION FOR BYLAWS

The Board shall cause to be developed Authority Bylaws. Each Member shall receive a copy of any Bylaws developed under this Article.

ARTICLE 32 - NOTICES

Notices to Members hereunder shall be sufficient if delivered to the administrative office of the respective Member. Delivery may be by U.S. Mail, email, or other form of notice acceptable under the Ralph M. Brown Act.

ARTICLE 33 – PROVISION FOR MAILED BALLOTS

Unless specifically prohibited elsewhere within this Agreement or the Bylaws, all actions contemplated by the Board of Directors may be voted on by the Members by mailed ballot as defined in the Bylaws. This shall not include the election of officers or members of the Executive Committee. Actions taken by mailed ballot shall require the same percentage of votes cast by the entire Membership as the percentage that would be required of a quorum voting on an item at a Board of Directors meeting.

ARTICLE 34 - AMENDMENT

With the exception of Article 27, this agreement may be amended by two-thirds vote of the Directors present at a duly held Board of Directors meeting, or by a two-thirds vote of the Membership for an amendment placed before the Membership by mailed ballot. Amendment to Article 27 shall require a three-fourths vote of the entire Board of Directors at a duly held Board of Directors meeting, or by a three-fourths vote of the Membership for an amendment placed before the Membership by mailed ballot.

ARTICLE 35 - PROHIBITION AGAINST ASSIGNMENT

With the exception of Article 21 (g), no Member may assign any right, claim or interest it may have under this Agreement, and no creditor, assignee or third party beneficiary of any Member shall have any right, claim or title to any part, share, interest, fund, contribution, or asset of the Authority.

ARTICLE 36 - AGREEMENT COMPLETE

The foregoing constitutes the full and complete Agreement of the parties. There are no oral understandings or agreements not set forth in writing herein.

IN WITNESS WHEREOF, the parties hereto have first executed this Agreement by authorized officials thereof on the date indicated below.

Date: _____

MEMBER: _____

By: _____



*Providing innovative risk management solutions
for our public agency partners*

BYLAWS

CALIFORNIA JOINT POWERS INSURANCE AUTHORITY

AMENDED JULY 17, 2019

INTEGRITY

EXCELLENCE

INNOVATION

TEAMWORK

BYLAWS

TABLE OF CONTENTS

ARTICLE I – OFFICES 1

 Section 1. Principal Executive Office. _____ 1

 Section 2. Other Offices. _____ 1

ARTICLE II - BOARD OF DIRECTORS 1

 Section 1. Composition and Selection. _____ 1

 Section 2. Vacancies. _____ 2

 Section 3. Annual Meeting. _____ 2

 Section 4. Special Meetings. _____ 3

 Section 5. Place of Meetings. _____ 3

 Section 6. Quorum. _____ 4

 Section 7. Adjourned Meetings. _____ 4

 Section 8. Voting. _____ 4

 Section 9. Inspectors of Election. _____ 5

ARTICLE III - EXECUTIVE COMMITTEE..... 6

 Section 1. Number of Members. _____ 6

 Section 2. Composition, Selection and Term of Office. _____ 6

 Section 3. Vacancies. _____ 7

 Section 4. Resignation. _____ 8

 Section 5. Removal of Executive Committee or its Individual Members by Board of Directors.____ 8

 Section 6. Regular Meetings. _____ 8

 Section 7. Special Meetings. _____ 8

 Section 8. Actions at Meetings. _____ 9

 Section 9. Adjourned Meetings. _____ 10

ARTICLE IV – CLAIMS COMMITTEE 10

 Section 1. Composition. _____ 10

 Section 2. Meetings. _____ 10

ARTICLE V - ADVISORY COMMITTEES..... 11

 Section 1. Managers Committee. _____ 11

Section 2.	Finance Officers Committee. _____	11
Section 3.	Underwriting Committee. _____	12
Section 4.	Other Committees _____	12
Section 5.	Meetings. _____	12
ARTICLE VI - OFFICERS AND EMPLOYEES.....		12
Section 1.	Officers. _____	13
Section 2.	Election and Term of Office. _____	13
Section 3.	Other Officers and Employees. _____	13
Section 4.	Vacancies. _____	13
Section 5.	Removal and Resignation. _____	13
Section 6.	President. _____	14
Section 7.	Vice President. _____	14
Section 8.	Secretary. _____	14
Section 9.	Treasurer. _____	15
Section 10.	Chief Executive Officer _____	15
ARTICLE VII - MISCELLANEOUS.....		15
Section 1.	Rules and Regulations of Joint Protection Programs. _____	15
Section 2.	Annual Report. _____	16
Section 3.	Defense of Agents of the Authority. _____	16
Section 4.	Inspection of Authority Records. _____	16
Section 5.	Checks and Drafts. _____	16
Section 6.	Register of Demands. _____	17
Section 7.	Execution of Contracts. _____	17
Section 8.	Rules of Procedure for Meetings. _____	17
ARTICLE VIII - AMENDMENTS TO BYLAWS.....		18
Section 1.	Power of Board of Directors. _____	18
Section 2.	Power of Executive Committee. _____	18

BYLAWS

FOR THE REGULATION, EXCEPT AS OTHERWISE PROVIDED BY
STATUTE, OR THE AGREEMENT CREATING THE AUTHORITY, OF THE
CALIFORNIA JOINT POWERS INSURANCE AUTHORITY

ARTICLE I – OFFICES

Section 1. Principal Executive Office.

The principal executive office for the transaction of the business of the Authority is hereby fixed and located at 8081 Moody Street, La Palma, California 90623. The Executive Committee of the Authority shall have the authority to change the location of the principal executive office from time to time. Any such change shall be noted on the Bylaws by the Secretary, opposite this section, or this section may be amended to state the new location.

Section 2. Other Offices.

Other business offices may at any time be established by the Executive Committee at any place or places where the Authority is qualified to do business.

ARTICLE II - BOARD OF DIRECTORS

Section 1. Composition and Selection.

The Board of Directors shall be composed of one Director from each Member of the Authority, who shall be a member of and selected by the legislative body of that Member, as provided for in the Agreement creating the Authority. Each legislative body shall also appoint at least one alternate, who shall be an officer or employee of that Member. The alternate may attend meetings and vote in the absence of the Director. One person may be duly appointed by more than one Member as the Director representing those Members. "Absence," as the term is used in this section, includes "vacancy" as defined in Section 2 of this Article II. "Director" as the term is used in these Bylaws includes an "alternate" serving in the absence of the Director.

If a Member's membership in the Authority is terminated for whatever reason and by whatever method, that Member shall no longer have a representative on the Board of Directors, Executive Committee, or any other Committee of the Authority.

Section 2. Vacancies.

A vacancy or vacancies on the Board of Directors shall be deemed to exist in case of death, resignation, expiration of term, removal by the Member that made the appointment, or when the Director ceases to be a member of the legislative body of the appointing Member. Vacancies in the positions of Director or alternate or alternates shall be filled in the manner provided for regular appointment of such persons in the Agreement creating the Authority and the Bylaws.

Section 3. Annual Meeting.

(a) Time Held and Business to be Transacted.

The annual meeting of the Board of Directors shall be held in July of each year or at such other time as may be designated by the Executive Committee. At such meeting the President and Vice President of the Authority and other members of the Executive Committee shall be elected as provided in Article III, reports of the affairs of the Authority shall be considered, and any other business may be transacted that is within the powers of the Board of Directors.

(b) Notice.

Written notice of each annual meeting shall be given to each Member of the Authority by mail, email, or other means of written communication, in the manner provided by the Ralph M. Brown Act, California Government Code Section 54950, *et seq.* Such notice shall specify:

- (1) the place, the date, and the hour of such meeting;
- (2) those matters that are intended to be presented for action or review by the Board of Directors;
- (3) if officers and members of the Executive Committee are to be elected, the names of nominees intended at the time of the notice to be presented for election;

- (4) the general nature of any proposal to be presented for action with respect to approval of (i) a new Member, (ii) a contract or other transaction of the Authority with an interested Member, (iii) amendment of the Agreement creating the Authority, (iv) the cancellation of a Member's participation in a joint protection program, (v) voluntary termination of the Agreement creating the Authority, or (vi) a distribution of program assets upon program dissolution; and
- (5) such other matters, if any, as may be expressly required by statute or by the Agreement creating the Authority.

Section 4. Special Meetings.

Special meetings of the Board of Directors, for the purpose of taking any action permitted by statute and the Agreement creating the Authority, may be called at any time by the President, or by the Vice President in the absence or disability of the President, or by the Executive Committee of the Authority or by not less than ten (10) Members. Upon request in writing that a special meeting of the Board of Directors be called for any proper purpose, directed to the President, Vice President, or Secretary of the Authority, by any person or persons entitled to call a special meeting of the Board of Directors, the officer receiving such request forthwith shall cause notice to be given to the Members that a meeting will be held at a time requested by the person or persons calling the meeting, not less than fifteen (15) nor more than sixty (60) days after receipt of the request. Notice of any special meeting shall be given in compliance with the Ralph M. Brown Act, California Government Code Section 54950, *et seq.* Such notice shall specify the place, date and hour of such meeting, and, if applicable, the names of nominees for officers or members of the Executive Committee intended at the time of the notice to be presented for election and the nature of the business to be transacted. No business other than that specified in the notice of the special meeting may be transacted at that meeting.

Section 5. Place of Meetings.

All annual or other meetings of the Board of Directors shall be held at a place within the State of California designated by the Executive Committee by resolution.

Section 6. Quorum.

At any meeting, the presence in person or by approved teleconference by the Director or alternate of a majority of the Members shall constitute a quorum for the transaction of business.

Section 7. Adjourned Meetings.

(a) Adjournment.

Any meeting of the Board of Directors may be adjourned from time to time by the vote of a majority of the Directors present.

(b) Notice.

When any meeting of the Board of Directors is adjourned for forty-five (45) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Except as specifically provided herein, or by the Ralph M. Brown Act, it shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted thereat, other than by announcement of the time and place thereof at the meeting at which such adjournment is taken.

Section 8. Voting.

Unless a record date for voting purposes is fixed by the Executive Committee, Members that are Members on the day of the meeting of the Board of Directors shall be entitled to vote at such meeting. Such vote may be by voice vote or ballot; provided, however, that all elections for officers or members of the Executive Committee must be by ballot upon demand made by a Director at any election and before the voting begins. If a quorum is present, the affirmative vote of the majority of the Members represented at the meeting shall be the act of the Board, unless the vote of a greater number is required by the Agreement creating the Authority or by statute. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors, provided that any action taken is approved by a number of Directors at least equal to a majority (or greater number if required) of the number required for a quorum for such meeting. Every Member shall have one vote to be exercised by its Director. If one person has been duly appointed by more than one Member as the Director representing those

Members, said person shall have the right to cast votes equal to the number of Members for which he or she has been appointed as Director.

Ballots shall have imprinted on them, the name of the Member on whose behalf a ballot is cast. Ballots shall be open to inspection and public disclosure. A Director has the right to change his or her vote up to the time the vote is finally announced and thereafter only with permission of the Board of Directors prior to adjournment. No Director may change his or her vote, nor may anyone challenge the vote of any Director after the results have been announced, except by the consent of the Board of Directors, and then only prior to adjournment of the meeting at which the vote was cast. Written proxies or powers of attorney casting the vote for any Director, directing any Director to vote in a particular fashion, or acting in the place and stead of any Director, are not acceptable. The vote of each Director or his or her alternate shall not be challenged on the basis that said Director or alternate voted contrary to the express will of the legislative body of the Member for which he or she acts.

Section 9. Inspectors of Election.

(a) Appointment.

In advance of any meeting of the Board of Directors, the Executive Committee may appoint any persons, other than nominees for office, as inspectors of election to act at such meeting or any adjournment thereof. If inspectors of election are not so appointed, the President, or Vice President in his or her absence, may, and on the request of any Director or alternate, shall make such appointment at the meeting. The number of inspectors shall be either one (1) or three (3), at least one of whom shall be a member of the Board of Directors. In case any person appointed as inspector fails to appear or fails or refuses to act, the vacancy may, and on the request of any Director, shall be filled by appointment by the Executive Committee in advance of the meeting, or at the meeting by the President, or the Vice President in his or her absence.

(b) Duties.

The duties of such inspectors shall include: Determining the current number of Members, the Members represented at the meeting, and the existence of a quorum; receiving votes, ballots or consents; hearing and determining all challenges and questions in any way arising in connection with the right to vote; counting and tabulating all votes or consents; determining when the polls shall close; determining the result; and such acts as may be proper to conduct the election or vote with fairness to all Members.

(c) Procedure.

The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical. The decision, act or certificate of a majority of the inspectors shall be effective in all respects as the decision, act or certificate of all. Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein.

ARTICLE III - EXECUTIVE COMMITTEE

Section 1. Number of Members.

The authorized number of members of the Executive Committee shall be nine (9), until and unless changed by amendment of this Section, duly adopted by the vote or written consent of a majority of the Board of Directors, and subject to the limitations in the Agreement creating the Authority.

Section 2. Composition, Selection and Term of Office.

The Executive Committee shall consist of the President, Vice President and seven other members elected by the Board of Directors from the members of the Board.

The terms of office of the Executive Committee members shall be for a term of two years or until he or she resigns or is removed or otherwise disqualified to serve. Members of the Executive Committee shall hold office until their successors are elected.

The President, or in his or her absence, the Vice President, shall serve as Chairperson of the Executive Committee.

Section 3. Vacancies.

(a) Creation of Vacancies.

A vacancy or vacancies in the Executive Committee shall be deemed to exist in case of the death, resignation, expiration of term, termination of membership on the Board of Directors, removal of any Executive Committee member by the Board of Directors, declaration of unsound mind by order of court, conviction of a felony, increase in the authorized number of members by amendment of the Agreement creating the Authority, or if the Board of Directors fail, at any annual or special meeting of the Board at which any members of the Executive Committee are elected, to elect the full authorized number of Executive Committee members to be voted for at that meeting. A vacancy in the Executive Committee may further be created by removal of any member by the Executive Committee when such member has been absent from two or more regular meetings of the Executive Committee without advance excuse approved by the Executive Committee during any one year (from July 1 to June 30), and the Executive Committee determines, after reviewing the circumstances of said absences, that such member should be removed.

(b) Vacancies Filled by Executive Committee.

Vacancies in the Executive Committee, except for a vacancy created by the removal of an Executive Committee member, may be filled by appointment by a majority of the remaining members of the Executive Committee, though less than a quorum, or by a sole remaining member of the Executive Committee, and each member so appointed shall hold office until the expiration of the term of the vacated seat.

(c) Vacancies Filled by Board of Directors.

The Board of Directors may elect a member of the Executive Committee at any time to fill any vacancy or vacancies or seat filled on an interim basis by the Executive

Committee. A vacancy in the Executive Committee created by the removal of a member by the Board of Directors may be filled only by the vote of a majority of the Directors present at a duly held meeting of the Board of Directors.

Section 4. Resignation.

Any Executive Committee member may resign effective upon written notice to the President, the Vice President, the Secretary or the Board of Directors of the Authority, unless the notice specifies a later time for the effectiveness of such resignation. A vacancy created by such resignation shall be filled pursuant to Article III, Section 3.

Section 5. Removal of Executive Committee or its Individual Members by Board of Directors.

The entire Executive Committee or any of its individual members may be removed from office by a two-thirds vote of the Directors present at a duly held meeting of the Board of Directors.

Section 6. Regular Meetings.

(a) Regular Meetings.

The Executive Committee shall hold a regular monthly meeting. In the event a meeting date falls on a holiday or conflicts with another activity of the Authority or its Members, the President and Chief Executive Officer may confer, and the President will reschedule the monthly meeting to a more convenient date, giving notice to all Members.

(b) Call and Notice.

No further call or notice of regular meetings need be given, except as is required to comply with the Ralph M. Brown Act, California Government Code Section 54950 *et seq.*

Section 7. Special Meetings.

(a) Call.

Special meetings of the Executive Committee for any purpose or purposes may be called at any time by the President, the Vice President, the Secretary, any two members of the Executive Committee, or the Chief Executive Officer.

(b) Notice.

Notice of the time and place of special meetings shall be given in writing to the members of the Executive Committee, delivered personally, by mail, email, or other approved method of delivery to each member at least 24 hours before the time of such meeting. Such notice shall specify the business to be transacted at the meeting and no business other than that specified in the notice shall be transacted at that meeting. Said notice shall be given in compliance with the Ralph M. Brown Act, California Government Code Section 54950 *et seq.*

Section 8. Actions at Meetings.

The President, or in his or her absence, the Vice President shall serve as the Chairperson of the Executive Committee. The presence of a majority of the authorized number of Executive Committee members at a meeting constitutes a quorum for the transaction of business, except as hereinafter provided. Members of the Executive Committee may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another; such participation in a meeting constitutes presence in person at such meeting. Every act or decision done or made by a majority of the Executive Committee members present at a meeting duly held at which a quorum is present shall be regarded as the act of the Executive Committee, unless a greater number is required by law, by the Agreement creating the Authority, or by these Bylaws. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of members, provided that any action taken is approved by a number of members at least equal to a majority (or greater number if required) of the number required for a quorum for such meeting.

Section 9. Adjourned Meetings.

(a) Adjournment.

A quorum of the members of the Executive Committee may adjourn any Executive Committee meeting to a stated day, hour and place; provided, however, that in the absence of a quorum, a majority of the Executive Committee members present at any meeting may adjourn from time to time to a time not later than the time fixed for the next regular meeting of the Executive Committee.

(b) Notice of Adjournment.

If a meeting is adjourned for more than 24 hours, at least 24-hours written notice of such adjournment to another time or place shall be given prior to the time of the adjourned meeting to the Executive Committee members who were not present at the time of adjournment. Otherwise, notice of the time and place of holding an adjourned meeting need not be given if the time and place are fixed at the time of adjournment, except that the provisions of the Ralph M. Brown Act, California Government Code Sections 54950 *et seq.*, shall be complied with.

ARTICLE IV – CLAIMS COMMITTEE

Section 1. Composition.

The Claims Committee shall be composed of each member of the Executive Committee, the Managers Committee Chair, and the Finance Officers Committee Chair.

Section 2. Meetings.

The President shall appoint an Executive Committee member to serve as the Chair of the Claims Committee. The Chair, or in his or her absence the President, shall preside over the meetings. The presence of a majority of the authorized number of Claims Committee members at a meeting constitutes a quorum for the transaction of business, except as hereinafter provided. Members of the Claims Committee may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can

hear one another; such participation in a meeting constitutes presence in person at such meeting. Every act or decision done or made by a majority of the Claims Committee members present at a meeting duly held at which a quorum is present shall be regarded as the act of the Claims Committee, unless a greater number is required by law, by the Agreement creating the Authority, or by these Bylaws. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of members, provided that any action taken is approved by a number of members at least equal to a majority of the number required for a quorum for such meeting.

ARTICLE V - ADVISORY COMMITTEES

Section 1. Managers Committee.

Pursuant to the Agreement creating the Authority, the Managers Committee shall be composed of one representative from each Member, who shall be the City Manager, City Administrator or the Chief Executive Officer of that Member. An alternate may be designated in writing to serve in place of and may vote for that representative in his or her absence. At any meeting, the presence in person or by approved teleconference of at least seven Managers or alternates shall constitute a quorum for the transaction of business. In the absence of a quorum, a majority of the Committee members present at any meeting may adjourn from time to time to a time not later than the time fixed for the next regular meeting of the Committee.

Section 2. Finance Officers Committee.

Pursuant to the Agreement creating the Authority, the Finance Officers Committee shall be composed of one representative from each Member, who shall be the Finance Director or Chief Finance Officer of that Member. An alternate may be designated in writing to serve in place of and may vote for that representative in his or her absence. At any meeting, the presence in person or by approved teleconference of at least seven Finance Officers or alternates shall constitute a quorum for the transaction of business. In the absence of a quorum, a majority of the Committee members present at any meeting may adjourn from time to time to a time not later than the time fixed for the next regular meeting of the Committee.

Section 3. Risk Managers Committee.

Pursuant to the Agreement creating the Authority, the Risk Managers Committee shall be composed of one representative from each Member, who shall be the Risk Manager or risk officer of that Member. An alternate may be designated in writing to serve in place of and may vote for that representative in his or her absence. At any meeting, the presence in person or by approved teleconference of at least seven Risk Managers or alternates shall constitute a quorum for the transaction of business. In the absence of a quorum, a majority of the Committee members present at any meeting may adjourn from time to time to a time not later than the time fixed for the next regular meeting of the Committee.

Section 4. Underwriting Committee.

Pursuant to the Agreement creating the Authority, the Underwriting Committee shall be composed of the Managers Committee Chair and Vice Chair, the Finance Officers Committee Chair and Vice Chair, and the Chief Executive Officer of the Authority. Three representatives shall constitute a quorum. In the absence of a quorum, a majority of the Committee members present at any meeting may adjourn.

Section 5. Other Committees

Other committees may be created by the Executive Committee for the purpose of providing specialized advice to the Executive Committee on the subject matter brought before it. The committee's purpose, composition, quorum requirements, and meeting schedule may be defined by the Executive Committee or delegated by the Executive Committee to the advisory committee itself.

Section 6. Meetings.

Such Committees shall meet from time to time and shall elect their respective Chairpersons, Vice Chairpersons and other officers as deemed necessary by them. All meetings shall be noticed in compliance with the Ralph M. Brown Act, California Government Code Section 54950, *et seq.*

ARTICLE VI - OFFICERS AND EMPLOYEES

Section 1. Officers.

The officers of the Authority shall be a President, a Vice President, a Secretary, and a Treasurer. The Executive Committee may, in addition, provide for other officers as it deems necessary for the performance of the business of the Authority.

Section 2. Election and Term of Office.

The President and Vice President of the Authority shall be elected by the Board of Directors at its annual meeting, and each shall hold office for a term of two years or until he or she resigns or is removed or otherwise disqualified to serve, and until his or her successor is elected.

Section 3. Other Officers and Employees.

The Executive Committee shall appoint, or may empower the President to appoint, subject to ratification by the Executive Committee, all officers other than the President and Vice President. Except as may otherwise be provided in the Agreement creating the Authority or the Bylaws, such officers shall hold office until replaced by action of the Executive Committee. The Executive Committee shall also appoint a Chief Executive Officer and Authority Attorney who shall serve at the pleasure of the Executive Committee or for such term as the Executive Committee may provide by agreement. All officers and employees shall have such authority and perform such duties as are provided in the Agreement creating the Authority, or the Bylaws or as the Executive Committee may from time to time determine. The Executive Committee may provide for the payment of compensation to officers or employees for their services to the Authority.

Section 4. Vacancies.

A vacancy in any office because of death, resignation, removal, disqualification, expiration of term, or any other cause shall be filled in the manner prescribed in the Agreement creating the Authority and the Bylaws for regular appointments to such office.

Section 5. Removal and Resignation.

(a) Removal.

The President, Vice President or any Executive Committee member may be removed, without cause, by the Board of Directors, at any regular or special meeting thereof. An officer chosen by the Executive Committee may be removed, without cause, by the Executive Committee or by any officer upon whom such power of removal may be conferred by the Executive Committee, (subject, in each case, to the rights, if any, of an officer under any contract of employment).

(b) Resignation.

Any officer may resign at any time by giving written notice to the Executive Committee or to the President, or to the Secretary of the Authority, without prejudice, however, to the rights, if any, of the Authority under any contract to which such officer is a party. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. President.

The President shall preside at all meetings of the Board of Directors and the Executive Committee. He or she shall be a member of all of the Executive Committee standing committees and shall have the powers and duties as may be prescribed by the Board of Directors, the Agreement creating the Authority, or the Bylaws.

Section 7. Vice President.

In the absence or disability of the President, the Vice President shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice President shall have such other powers and perform such other duties as from time to time may be prescribed by the Board of Directors or the Bylaws.

Section 8. Secretary.

The Secretary shall record or cause to be recorded, and shall keep or cause to be kept, at the principal executive office or such other place as the Executive Committee may order, a permanent record of minutes of actions taken at all meetings of the Board of Directors and

Executive Committee, whether regular or special, (and, if special, how authorized), the notice thereof given, the names of those present at the meetings, and the proceedings thereof.

The Secretary shall keep, or cause to be kept, at the principal executive office of the Authority a list of all designated Directors and alternates of each Member.

The Secretary shall give, or cause to be given, notice of all the meetings of the Board of Directors and of the Executive Committee required by the Bylaws or by law to be given, and shall have such other powers and perform such other duties as may be prescribed by the Executive Committee, the Agreement creating the Authority, or by the Bylaws.

Section 9. Treasurer.

The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct financial records of the Authority, including accounts of its assets, liabilities, receipts, and disbursements, and shall have such other duties as are provided for in the Agreement creating the Authority.

Section 10. Chief Executive Officer

The Chief Executive Officer shall be authorized and responsible for the overall management and administration of the Authority and its joint protection programs and shall select and appoint all employees. The Chief Executive Officer shall have such other and related duties as may be prescribed by the Executive Committee or the Bylaws.

ARTICLE VII – MISCELLANEOUS

Section 1. Rules and Regulations of Joint Protection Programs.

As soon as practicable after development of the details of a joint protection program of the Authority, the specific rules and regulations for the implementation of the program shall be adopted by the Executive Committee, which shall cause them to be set forth in written form and a copy thereof distributed to each Member. Such rules and regulations shall be included in any procedure manual prepared by the Authority for the Members.

Section 2. Annual Report.

The Executive Committee of the Authority shall cause an annual report to be sent to the Members not later than 270 days after the close of each fiscal year. Such report shall contain a statement of net position as of the end of such fiscal year and a statement of revenues, expenses, and changes in net position for such fiscal year, and shall be accompanied by the annual audit report thereon and such other information as may be required by law.

Section 3. Defense and Indemnification of Agents of the Authority.

- (a) For the purpose of this Article, "agent" means any person who is or was an officer, board member, employee, or other agent of the Authority.

- (b) The Authority shall provide for the defense and indemnity of any civil action or proceeding brought against any such agent of the Authority in his or her official or individual capacity or both, on account of an act or omission within the scope of his or her agency as an agent of the Authority, and to the extent of such defense as is provided for in California Government Code Section 995 *et seq.*

Section 4. Inspection of Authority Records.

The accounting, books and records, the list of Members' designated Directors and alternates, and minutes of proceedings of the Board of Directors and the Executive Committee and all other committees of the Authority shall be open to the inspection of any Member at any reasonable time. Such inspection by a Member may be made in person or by agent or attorney, and the right of inspection includes the right to copy and make extracts.

Section 5. Checks and Drafts.

All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Authority, shall be signed or endorsed by the President and Treasurer or by such person or persons and in such manner as, from time to time, shall be determined by the Executive Committee.

Section 6. Register of Demands.

A register of all demands shall be submitted to the Executive Committee for payment approval and shall have attached thereto the affidavit or declaration of the Chief Executive Officer certifying as to the accuracy of the demands and the availability of funds for payment thereof. The Executive Committee shall not hear, consider, allow or approve any bill or demand against the Authority unless the same is itemized giving names, dates, and particular services tendered, and any other pertinent details as the case may be. Demands for salaries and wages of officers and employees of the Authority may, but need not be, presented to the Executive Committee prior to payment but shall appear on the next register of demands for approval.

After approval of the register of demands by the Executive Committee, the public officer performing the function of Treasurer shall sign the warrant authorizing payment of the demands so approved. Signatures on warrants may be by facsimile.

Section 7. Execution of Contracts.

The Executive Committee may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Authority, and such authorization may be general or confined to specific instances. Unless so authorized by the Executive Committee, no officer, agent or employee shall have any power or authority to bind the Authority by any contract or engagement or to pledge its credit or to render it liable for any purpose or to any amount. The Chief Executive Officer is authorized to enter into any contract or execute any instrument in the name of, and on behalf of, the Authority for services and programs approved by the Executive Committee or Board of Directors, subject to limitations (including budget limitations) set by the Executive Committee or the Board of Directors.

Section 8. Rules of Procedure for Meetings.

All meetings of the Board of Directors, Executive Committee, and any other Committees of the Authority, shall be conducted in accordance with Robert's Rules of Order, except where such are in conflict with California law, the Agreement creating the Authority, or the Bylaws, whereupon the latter three shall govern over said Rules of Order.

ARTICLE VIII - AMENDMENTS TO BYLAWS

Section 1. Power of Board of Directors.

New Bylaws may be adopted, or these Bylaws may be amended or repealed by the affirmative vote of a majority of the quorum at a meeting of the Board of Directors, except as otherwise provided by the Agreement creating the Authority.

Section 2. Power of Executive Committee.

Subject to the right of the Board of Directors as provided in Section 1 of this Article VIII to adopt or amend Bylaws, Bylaws other than a bylaw or amendment thereof changing the authorized number of members of the Executive Committee may be adopted or amended by the Executive Committee. Any amendment by the Executive Committee shall be on the agenda of the next meeting of the Board of Directors for ratification. An affirmative vote by a majority of the quorum shall constitute ratification of the amendment.

RESOLUTION NO. 2020-37**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING EXECUTION OF THE JOINT POWERS AGREEMENT CREATING THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY**

WHEREAS, pursuant to the provisions of Sections 990, 990.4, 990.8 and 6500 of the California Government Code, the California Joint Powers Insurance Authority (“California JPIA”) has been created by a Joint Powers Agreement; and

WHEREAS, Joint Protection Programs have been developed by the California JPIA pursuant to the provisions of said Agreement; and

WHEREAS, Article 22 of said Agreement provides for additional members to become parties to the Joint Powers Agreement creating the California JPIA and enter one or more Joint Protection Programs providing self-insurance and loss pooling; and

WHEREAS, the self-insurance and loss pooling programs of the California JPIA, as well as its group insurance coverage programs, offer significant advantages to the City of West Covina in terms of cost, protection, risk management and loss control advice and assistance, and entering such programs would be in the best interest of the City of West Covina.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Manager of the City of West Covina is hereby authorized and directed to execute the Joint Powers Agreement on behalf of the City of West Covina binding the Member to the terms and conditions of said Agreement. The City of West Covina understands and agrees that, by executing the Agreement, it will be bound by the terms of the Joint Powers Agreement, specifically Article 21, “Responsibilities of Members,” including the obligation to make deposits and deposit adjustments for joint protection programs it joins.

SECTION 2. The City of West Covina hereby joins the California JPIA, for a period of not less than three (3) years.

SECTION 3. The City of West Covina acknowledges and agrees to the provisions of Article 24 of the Agreement, which provides:

(a) A Member that enters into this Agreement may not withdraw as a party to this Agreement and as a Member of the Authority for a three-year period commencing on the effective date of its membership.

(b) A Member that enters into a joint protection program may not withdraw as a participant in that program for a three-year period commencing on the effective date of its participation in the joint protection program.

(c) After the initial three-year non-cancellable commitment to membership in the Authority or participation in a joint protection program, a Member may withdraw only at the end of any protection period, provided it has given the Authority a twelve-month written notice of its intent to withdraw from this Agreement and/or any joint protection programs in which it participates.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

SECTION 5. The City Clerk is directed to forward a certified copy of this resolution to the California JPIA, 8081 Moody Street, La Palma, CA 90623

APPROVED AND ADOPTED this 5th day of May, 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-37 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk

RESOLUTION NO. 2020-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, TO AUTHORIZE AND APPROVE POOLING OF SELF-INSURANCE THROUGH THE EXCESS LIABILITY PROTECTION PROGRAM OF THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY

WHEREAS, pursuant to the provisions of Section 6500 et seq. and also Sections 990.4 and 990.8 of the California Government Code, the California Joint Powers Insurance Authority (“California JPIA”) was created in 1977; and

WHEREAS, the City of West Covina has executed the Joint Powers Agreement, to become a member of the California JPIA; and

WHEREAS, the California JPIA has established and administered a successful Liability Self-Insurance and Loss Pooling Program since April 1, 1978; and

WHEREAS, there are significant financial and administrative advantages for the City of West Covina to participate in the Excess Liability Protection Program.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Liability coverage for the City of West Covina through the Excess Liability Program of the California JPIA is hereby authorized and directed effective July 1, 2020, for a minimum commitment period of three years, pursuant to the terms of the Excess Liability Program Memorandum of Coverage in effect at the time of any occurrence covered by the Memorandum of Coverage.

SECTION 2. An initial annual contribution of \$1,072,900, or such pro-rata part thereof as the California JPIA might determine for coverage of less than a fiscal period, for the Excess Liability Protection Program is approved and the appropriate officers of the City of West Covina are authorized to pay the same to the California JPIA.

SECTION 3. The City of West Covina will subsequently be required to make deposits and deposit adjustments as provided in the California JPIA Joint Powers Agreement.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

SECTION 5. The City Clerk is directed to forward a certified copy of this resolution to the California JPIA, 8081 Moody Street, La Palma, CA 90623

APPROVED AND ADOPTED this 5th day of May, 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-38 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk

RESOLUTION NO. 2020-39**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA TO AUTHORIZE AND APPROVE POOLING OF SELF-INSURANCE THROUGH THE EXCESS WORKERS' COMPENSATION PROGRAM OF THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY**

WHEREAS, pursuant to the provisions of Section 6500 et seq. and also Sections 990.4 and 990.8 of the California Government Code, the California Joint Powers Insurance Authority ("California JPIA") was created in 1977; and

WHEREAS, the City of West Covina has executed the Joint Powers Agreement, to become a member of the California JPIA; and

WHEREAS, the California JPIA has established and administered a number of successful Workers' Compensation Self-Insurance and Loss Pooling Program for its members since January 1, 1980; and

WHEREAS, there are significant financial and administrative advantages for the City of West Covina provide workers' compensation coverage for its employees through the Excess Workers' Compensation Protection Program of California JPIA.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Workers' Compensation coverage for the City of West Covina through the Excess Workers' Compensation Protection Program of the California JPIA is hereby authorized and directed effective July 1, 2020, for a minimum commitment period of three years, pursuant to the terms of the Excess Workers' Compensation Program Memorandum of Coverage in effect at the time of any occurrence covered by the Memorandum of Coverage.

SECTION 2. The City Manager or his/her designee of the City of West Covina is authorized and directed to apply to the Department of Industrial Relations for a Certificate of Consent to Self-Insure, and to take such other actions as be necessary to effectuate self-insurance of workers' compensation for employees of the City of West Covina.

SECTION 3. An initial annual contribution of \$347,500, or such pro-rata part thereof as the California JPIA might determine for coverage of less than a fiscal period, for the Excess Workers' Compensation Protection Program is approved and the appropriate officers of the City of West Covina are authorized to pay the same to the California JPIA.

SECTION 4. The City of West Covina will subsequently be required to make deposits and deposit adjustments as provided in Articles 17 and 21 of the California JPIA Joint Powers Agreement.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

SECTION 6. The City Clerk is directed to forward a certified copy of this resolution to the California JPIA, 8081 Moody Street, La Palma, CA 90623

APPROVED AND ADOPTED this 5th day of May, 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-39 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk

RESOLUTION NO. 2020-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PROVIDING WORKERS' COMPENSATION COVERAGE FOR CERTAIN CITY OF WEST COVINA VOLUNTEERS PURSUANT TO THE PROVISIONS OF SECTION 3363.5 OF THE LABOR CODE

WHEREAS, the City of West Covina finds its best interest will be served by utilizing volunteers in the provision of certain government services; and

WHEREAS, said volunteers should be eligible for workers' compensation coverage while on duty.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council find and determines that the public interest is best served by providing workers' compensation coverage for the City of West Covina volunteer workers as specified by the City Manager.

SECTION 2. The City will provide eligibility for said volunteers for workers' compensation benefits which will be applicable during the time the person actually performs volunteer services, provided, however, that the rights of volunteers shall be limited as set forth in the Labor Code.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

SECTION 4. The City Clerk is directed to forward a certified copy of this Resolution to the California JPIA, 8081 Moody Street, La Palma, CA 90623

APPROVED AND ADOPTED this 5th day of May, 2020.

Tony Wu
Mayor

APPROVED AS FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-40 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 5th day of May, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk



CERTIFICATION OF DIRECTOR AND ALTERNATE(S)

I hereby certify that as of this date, the Official Minutes and Records of the Subcommittee of the City of West Covina confirm that the following persons have been appointed to represent the City Council, in accordance with the provisions of Article 7 of the California Joint Powers Insurance Authority Joint Powers Agreement.

DIRECTOR (Board Member):

Dario Castellanos Councilmember DCastellanos@westcovina.org
Name Title email address

ALTERNATE(S) (one or more, may be Board Member or staff):

David Carmany City Manager DCarmany@westcovina.org
Name Title email address

Tony Wu Mayor Wuforwestcovina@gmail.com
Name Title email address

Letty Lopez-Viado Mayor Pro Tem Lettylopezwestcovina@gmail.com
Name Title email address

Lloyd Johnson Councilmember Lloyd.Jonson@westcovina.org
Name Title email address

Jessica C. Shewmaker Councilmember JShewmaker@westcovina.org
Name Title email address

Signature

City of West Covina
Agency (please print agency name)

Date



LossCAP Program

Initial Risk Management Evaluation

City of West Covina

July 15 - 16, 2019

Table of Contents

Executive Summary.....3
New Action Items4
Records & Contract Management.....4
Occupational Safety & Health Programs.....7
Human Resources17
Fleet and Driver Management.....21
Infrastructure Management22
Parks and Playground Management.....28
Recreation and Community Services.....35
Law Enforcement Services38
Fire Department Operations.....40
Report Summary.....41
Agency Exemplar42

Executive Summary

This report contains the findings of an Initial Risk Management Evaluation (IRME) of the City of West Covina. The evaluation was conducted by the California Joint Powers Insurance Authority (California JPIA) on July 16, 2019.

The California JPIA extends its thanks to staff for their support and assistance in completing this evaluation.

This report is designed to assist your agency in addressing areas in which risk exposure or loss data support the need for change in operations or activity. This report is arranged to outline the various areas of concern identified during the evaluation. Specifically, the IRME, although not exhaustive in scope, does this by examining key areas of your operations.

Action items made are drawn from information provided by agency staff and conditions observed at the time of the evaluation and are measured against various applicable statutes, regulatory codes, and Best Risk Management Practices. Best Risk Management Practices (BRMP) are accepted in the professional community as those measures best able to control risk exposure. BRMP do not have an associated regulatory requirement, but are considered sound measures to reduce losses. Each action item may be supported by a standard (statute, regulatory code, or publication) and/or resource, and will be noted accordingly; otherwise, it is considered a BRMP. Your agency is encouraged to act upon the findings contained herein, in a manner that is consistent with their importance to your agency.

Risk management, loss control, and safety are daily responsibilities of your agency. Visits and related efforts made by the California JPIA are not considered or intended to supplant your agency's comprehensive risk management and safety programs. Successfully managing risk ensures that your agency is able to reduce impact on key areas of your operations, including services, personnel, and property.

Finally, we have included an Agency Exemplar at the end of the report to serve as a guide to help our members better understand the elements of good risk management.

New Action Items

Records & Contract Management

Action Item: 2019-001

Observations:

The following contract agreements were reviewed during the evaluation:

- The Los Angeles County Metropolitan Transportation Authority (LACMTA): The agreement did not include the Evidence of Coverage and Additional Insured Endorsements.
- San Gabriel Mountains Regional Conservancy - Operation and Maintenance of the Galster Park Nature Program: The agreement does not require sexual/physical abuse insurance. The contract should include sexual molestation coverage as the contractor will be working with minor children. The agreement did not include the Evidence of Coverage and Additional Insured Endorsements.
- Busy Bee Home Day Care – Facilities Use Agreement: The agreement did not require an Additional Insured Endorsement. The agreement did not include the Evidence of Coverage.
- Merchants Landscape Services, Inc. – Landscape Maintenance: The Certificate of Insurance provided was expired and it did not provide the policy limits as required per the Agreement. The Agreement does not include language pertaining to the inspection and maintenance of the playgrounds. Include language in the Agreement outlining the Agency’s playground maintenance and inspection requirements.
- West Coast Arborists, Inc. – Tree Trimming: The agreement did not include the Evidence of Coverage and Additional Insured Endorsements.
- Willdan Engineering – Professional Services Agreement: The agreement did not include the Evidence of Coverage and Additional Insured Endorsements.
- Santa Barbara Transportation Corp. dba Student Transportation of America: The contract expired 9/30/2018. If the agency is currently using the services of this provider, a current agreement should be executed. The contract should include sexual molestation coverage as the contractor will be working with minor children. The agreement did not include the Evidence of Coverage and Additional Insured Endorsements.
- Big League Dreams West Covina, LLC (BLDWC) – Maintenance and Operations Agreement: The agreement did not include the Evidence of Coverage and Additional Insured Endorsements.
- The Humane Society of Pomona Valley, Inc. dba Inland Valley Humane Society & S.P.C.A. -The Animal Shelter & Animal Control Services Agreement: The Agreement does not include an expiration date. The agreement did not include the Evidence of Coverage and Additional Insured Endorsements.

- City of West Covina and LA County Sheriff's Dept - MOU Agreement: The agreement was signed by West Covina's former Chief of Police on 06/28/16. The Memorandum is to be reviewed at a minimum of once every two (2) years.

Staff members indicated that insurance types and limits are not determined by contract exposure.

Action Required:

Based on the observations made when reviewing the above contracts, the following recommendations are made to enhance your agency's contract management efforts:

- Obtain certificates of insurance and endorsements from contractors. Contractors should provide certificates of insurance and policy endorsements before they can begin work. Contractors should be notified immediately in writing when insurance documentation is deficient or is not received as required.
- Review existing specifications for the most frequently used types of contracts and ensure that required levels of insurance are adequate to the scope of services provided by contractors. Increase limits when necessary, using the minimum suggested insurance limits outlined in the California JPIA's Contractual Risk Transfer for California Public Agencies manual.
- Renegotiate contracts as needed at renewal times, and clearly delineate insurance requirements based on the exposure of the contract.
- The agency clerk or designee should maintain the filing system for all service and construction contracts and agreements. Certificates of insurance, indemnification agreements, endorsements, and bonding documents required by contract provisions should be kept together with the original contract agreements. Complete documentation should be maintained within fire safe containers and protected by a fire detection and suppression system.
- Develop contract documentation tracking procedures to monitor contractor compliance with contract provisions and to ensure that insurance documents required in contracts are received in a timely fashion.

By properly managing its contracts, the agency can reduce its loss exposures and likewise reduce disputes with contractors and their insurers when a loss occurs.

Standards:

Best Risk Management Practices

Resources:

Contractual Risk Transfer for California Public Agencies manual. California JPIA, Seventh Edition, 2018

Action Item: 2019-002

Observations:

Contracts are not developed and implemented for all service providers.

Action Required:

Develop and execute service contracts which include appropriate risk transfer language when outsourcing agency activities to service companies.

By properly managing its contracts, the agency can reduce its loss exposures and likewise reduce disputes with contractors and their insurers when a loss occurs.

Standards:

Best Risk Management Practices

Resources:

Contractual Risk Transfer for California Public Agencies manual. California JPIA, Seventh Edition, 2018

Action Item: 2019-003

Observations:

The agency does not require insurance as part of the encroachment permit application and its indemnity language is broad.

Action Required:

Revise encroachment permit to include insurance requirements and appropriate indemnity language.

Resources:

A sample template is located on the California JPIA's website.



Occupational Safety & Health Programs

Action Item: 2019-004

Observations:

The agency has not implemented a Facilities Inspection Program.

Action Required:

Develop and implement a program to regularly inspect agency facilities to identify hazardous conditions and practices that require corrective or preventive measures, consistent with the requirements of Cal/OSHA. This program should be coordinated with the inspection program required by the Injury and Illness Prevention Program and should include documentation of identified deficiencies and corrective actions that are completed or planned.

Standards:

California Code of Regulations, Title 8, Section 3203 (a) (4); 29 CFR 1910.157, Fire Protection

Resources:

Sample checklists have been developed and are located on the California JPIA's website.

Action Item: 2019-005

Observations:

A centralized Safety Manual has not been developed.

Action Required:

Develop a centralized Safety Manual to encourage employee awareness of and compliance with each of the agency's specific safety policies. The manual should include all department-specific safety policies and be formally adopted by the agency governing body.

The Injury and Illness Prevention Program Administrator will be better prepared to respond to questions posed by a Cal/OSHA inspector if a centralized Safety Manual is maintained, and it will also enable the agency to maintain greater control over the Cal/OSHA inspection process.

Standards:

California Code of Regulations, Title 8, Section 3203

Resources:

A link to additional website Resources and a sample program has been provided and is located on the California JPIA's website.

Action Item: 2019-006**Observations:**

The agency does not have a Bloodborne Pathogens Exposure Control Program.

Action Required:

Assess employee exposure to blood or other potentially infectious materials, document the findings, and include this in the centralized Safety Manual. The California Code of Regulations provides that all employers who may reasonably be anticipated to have this occupational exposure develop a Bloodborne Pathogens Exposure Control Plan consistent with the requirements of Cal/OSHA.

Standards:

California Code of Regulations, Title 8, Section 5193; 29 CFR 1910.1030, Bloodborne Pathogens

Resources:

A link to additional website resources has been provided and is located on the California JPIA's website.

Action Item: 2019-007**Observations:**

The agency does not have a Confined Space Entry Control Program.

Action Required:

Determine whether confined spaces exist at agency facilities. If confined spaces exist, a written Confined Space Entry Control Program, consistent with the applicable Sections of Cal/OSHA, should be developed. The program must include procedures for testing the atmosphere in confined spaces; assignment of supervisors, attendants, and rescue personnel; and employee training. A permit system may be required.

Standards:

California Code of Regulations, Title 8, Sections 5156, 5157, and 5158, Confined Spaces; 29 CFR 1910.146

Resources:

A sample policy has been developed and is located on the California JPIA's website.



Action Item: 2019-008**Observations:**

The agency does not have an Emergency Action Plan.

Action Required:

Develop and implement an Emergency Action Plan consistent with the requirements of Cal/OSHA. This plan shall be in writing and shall cover those designated actions employers and employees must take to ensure employee safety from fire and other emergencies.

Elements of the plan include (at a minimum):

- Emergency escape procedures and emergency escape route assignments;
- Procedures to be followed by employees who remain to operate critical plant operations before they evacuate;
- Procedures to account for all employees after emergency evacuation has been completed;
- Rescue and medical duties for those employees who are to perform them;
- The preferred means of reporting fires and other emergencies;
- Names or regular job titles of persons or departments who can be contacted for further information or explanation of duties under the plan;
- An employee alarm system that complies with Article 165;
- The types of evacuation to be used in emergency circumstances: and
- Training.

Standards:

California Code of Regulations, Title 8, Section 3220; 29 CFR 1910.38

Resources:

A link to additional website resources has been provided and is located on the California JPIA's website.

Action Item: 2019-009**Observations:**

The agency does not have a Fire Prevention Plan.

Action Required:

Develop and implement a Fire Prevention Plan consistent with the requirements of Cal/OSHA. This plan should include an inventory of fuels and sources of ignition, fire protection systems, housekeeping policies, employee training, and the names or job titles of responsible personnel.

Standards:

California Code of Regulations, Title 8, Section 3221; 29 CFR 1910.39

Resources:

A link to additional website resources has been provided and is located on the California JPIA's website.



Action Item: 2019-010**Observations:**

The agency does not have a Hazard Communication Program.

Action Required:

Develop and implement a Hazard Communication Program, consistent with the requirements of Cal/OSHA. This program should include product labeling, Safety Data Sheets (SDS) availability, and employee training.

Standards:

California Code of Regulations, Title 8, Section 5194; OSHA Publication 3695

Resources:

A link to additional website resources has been provided and is located on the California JPIA's website.

Action Item: 2019-011**Observations:**

The agency does not have a Hearing Conservation Program.

Action Required:

Assess employee exposure to hazardous noise levels, document the findings, and include this in the centralized Safety Manual. This program should contain provisions for pre-employment assessment, appropriate hearing protection, annual audiometric tests, annual employee training, and periodic environmental assessments.

Determine if existing machinery emits noise greater than 85 dB and how long employees are exposed to the machinery. If the research indicates that employees are exposed to noise levels in excess of 85 dB for an eight-hour time-weighted average, a Hearing Conservation Program, consistent with the requirements of Cal/OSHA, should be implemented.

Standards:

California Code of Regulations, Title 8, Article 105, Section 5097; 29 CFR 1910.95, Occupational Noise Exposure

Resources:

A link to additional website resources has been provided and is located on the California JPIA's website.

Action Item: 2019-012

Observations:

The agency does not have a Heat Illness Prevention Program.

Action Required:

A Heat Illness Prevention Program should be developed and implemented. The program should include provision of shade, breaks, drinking water, and employee/supervisor training in recognizing the symptoms of heat illness.

Standards:

California Code of Regulations, Title 8, Section 3395; OSHA General Duty Clause, Section 5(a)(1)

Resources:

A link to additional website resources has been provided and is located on the California JPIA's website.

Action Item: 2019-013

Observations:

The agency's Injury and Illness Prevention Program is outdated. It was last updated in 1994.

Action Required:

Revise the agency's Injury and Illness Prevention Program to comply with the requirements of Cal/OSHA. The following required provisions should be reviewed and revised as necessary:

- Identification of the person or persons responsible for implementing the program;
- The agency's name and address;
- The employer's system for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices; Investigations of all occupational injuries and illnesses;
- The employer's methods and procedures for correcting unsafe or unhealthy conditions and work practices in a timely manner;
- An occupational health and safety training program designed to instruct employees in general safe and healthy work practices and to provide specific instructions with respect to hazards specific to each employee's job assignment;
- The employer's system for communicating with employees on occupational health and safety matters, including provisions designed to encourage employees to inform the employer of hazards at the work site without fear of reprisal (anonymous reporting system); and
- The employer's system for ensuring that employees comply with safe and healthy work practices, which must include recognition, training, re-training, and disciplinary action.

The agency's Injury and illness Prevention Program should be reviewed and revised as necessary annually.

Standards:

California Code of Regulations, Title 8, Section 3203

Resources:

A sample policy has been developed and is located on the California JPIA's website.

Action Item: 2019-014

Observations:

The agency does not have a Lockout/Tagout Program.

Action Required:

Develop a written Lockout/Tagout Program, consistent with the requirements of Cal/OSHA. The agency's Lockout/Tagout procedures must be followed whenever outside servicing personnel are engaged in this work.

Standards:

California Code of Regulations, Title 8, Sections 3314 and 2320; Appendix A to 29 CFR 1910.147

Resources:

A link to additional website resources has been provided and is located on the California JPIA's website.

Action Item: 2019-015

Observations:

Agency forklift operators have not been trained as required.

Action Required:

Provide training to operators of powered industrial trucks in accordance with the California Code of Regulations, Title 8. Refresher training should be provided every three years or as required by the California Code of Regulations, Title 8.

Standards:

California Code of Regulations, Title 8, Section 3668; OSHA General Duty Clause, Section 5(a)(1)

Action Item: 2019-016**Observations:**

The agency does not have a Repetitive Motion Injury Control (Ergonomics) Program.

Action Required:

Consider developing and implementing a Repetitive Motion Injury Control (Ergonomic) Program consistent with the requirements of Cal/OSHA. This is required where a repetitive motion injury (RMI) has occurred to more than one employee under the following conditions:

- The employees incurring the RMIs were performing a job process, or operation of identical work activity;
- The RMIs were musculoskeletal injuries that a licensed physician objectively identified and diagnosed; and
- The RMIs were reported by the employees to the employer in the last twelve months.

This program should include a worksite evaluation, control of exposures that have caused repetitive motion injuries, and training of employees.

Standards:

California Code of Regulations, Title 8, Sections 3203 and 5110; 29 CFR 1910.900

Resources:

A sample policy has been developed and is located on the California JPIA's website.

Action Item: 2019-017**Observations:**

The agency does not have a Respiratory Protection Program, nor has an Airborne Health Hazards Assessment been completed.

Action Required:

Document the agency's assessment regarding employee exposure to airborne health hazards in the workplace and include this in the centralized Safety Manual. Reassess employee exposure periodically. If identified hazards cannot be eliminated, develop and implement a Respiratory Protection Program, consistent with the requirements of Cal/OSHA.

Standards:

California Code of Regulations, Title 8, Section 5144; 29 CFR 1910.134, Respiratory Protection

Resources:

A sample policy has been developed and is located on the California JPIA's website.

Action Item: 2019-018**Observations:**

The agency does not have a formal Trenching and Excavation Safety Program in place.

Action Required:

A Trenching and Excavation Safety Program, consistent with the requirements of Cal/OSHA, should be developed. Training should be conducted as needed and as required.

Standards:

California Code of Regulations, Title 8, Section 1541; 29 CFR 1910.652 Excavations, Requirements for Protective Systems

Resources:

A link to additional website Resources and a sample program has been provided and is located on the California JPIA's website.

Action Item: 2019-019**Observations:**

The agency does have a Safety Committee, though it is not currently active.

The agency's Injury and Illness Prevention Program (IIPP) needs revisions.

Action Required:

Determine if the Safety Committee will resume or formally disband the Safety Committee and reassign its defined responsibilities to other agency staff.

Should the agency decide to resume the Safety Committee's efforts, it should consider broadening the scope of issues covered during Safety Committee meetings and keep a file of meeting agendas and minutes of items discussed and actions taken. The issues should include:

- Overseeing a hazard identification program for all departments;
- Reviewing accidents involving agency employees to make certain the actions taken to prevent recurrence are adequate;
- Monitoring accident statistics to determine trends and problem areas;
- Reviewing safety training needs and current training programs for adequacy and recommending changes or additional programs as necessary;
- Initiating programs to stimulate and maintain employee interest in safety; and
- Reviewing and evaluating safety and health recommendations from all sources, including employee suggestions and complaints.

If the Safety Committee will resume, develop a formal written policy with regular meetings at the specified frequency. The policy should be included in the agency's Injury and Illness Prevention Program.

Standards:

Best Risk Management Practices

Action Item: 2019-020**Observations:**

It is unknown whether training is provided to employees who may be exposed to hazards associated with working around asbestos or lead-based paint.

There is not a written Operations and Maintenance Program in place for agency facilities which contain asbestos or lead-based paint building materials.

Action Required:

Personnel activities should be reviewed to determine whether there is a potential for employee exposures to asbestos or lead.

When employees are exposed to asbestos or lead, an Exposure Control Plan should be developed.

Personal protective equipment (PPE) and employee training should be provided as needed and required.

Develop and implement an Operations and Maintenance Program to manage exposures to asbestos-containing materials and lead-based paint, consistent with the requirements of the California Code of Regulations, Title 8. The program should include employee awareness training. It should also contain a provision advising all employees, service vendors, contractors, and tenants of the known presence of asbestos-containing materials (ACM) and lead-based paint (LBP) in agency facilities, as well as any pre-1978 facilities that have not been sampled. Awareness training reduces the potential for any accidental disturbance of ACM and LBP, and it ensures that proper response procedures are initiated in the event of an incident.

Standards:

California Code of Regulations, Title 8, Section 1529, 1532.1, 5208 and 5216
40 CFR, Part 763 – Asbestos; California Code of Regulations, Title 8, Section 5208,
Asbestos; 29 CFR 1910.1200 Hazard Communication

Resources:

A sample program has been developed and is located in the Resource Center on the California JPIA's website.

Action Item: 2019-021**Observations:**

Automated External Defibrillators (AEDs) and other medical emergency equipment were provided for emergency use.

It was not determined whether the AEDs are inspected, tested, and maintained on a regular basis.

It was not determined whether staff members are properly trained on the use of AEDs and maintain current CPR certification.

It was not determined whether a written program outlining the operation, inspection, maintenance, and training requirements for AEDs has been developed.

Action Required:

AEDs should be inspected monthly to ensure that they are in good condition and functional.

AEDs should be tested and maintained in accordance with the recommendations of the manufacturer. All inspections, testing, and maintenance should be documented.

An adequate number of staff should be properly trained to respond to emergency situations requiring the use of the AED. This training should include, at a minimum, training on proper use of the AED as well as maintaining current CPR certification.

All staff at locations with AEDs should annually receive a brochure that describes the proper use of the AED. This information should also be posted next to each AED.

All staff should be informed annually as to the location of each AED.

If one does not exist, a written program that complies with the requirements of the California Health and Safety Code should be developed.

Standards:

California Health and Safety Code, Section 1797.196; California Civil Code, Section 1714.21

Resources:

A sample policy has been developed and is located on the California JPIA's website.

Human Resources

Action Item: 2019-022

Observations:

The organization's Personnel Manual and personnel policies are not reviewed regularly with employees.

Action Required:

Employees should be periodically required to sign an acknowledgement of these policies. To ensure regular acknowledgement of the policies, this can be incorporated into annual performance evaluations.

Standards:

Best Risk Management Practices

Action Item: 2019-023

Observations:

Pre-employment screening for alcohol and/or controlled substances is conducted for all prospective employees.

The agency has not created a list of safety-sensitive positions.

Action Required:

Agency policy should be updated to reflect case law which prohibits blanket drug screening of employment applicants. The agency should develop a list of safety-sensitive positions for which employment is contingent upon screening for illegal or controlled substances. Accordingly, only those applying for positions identified as safety-sensitive should be screened for illegal or controlled substances.

Standards:

Best Risk Management Practices

Action Item: 2019-024

Observations:

Annual performance evaluations do not consider safety compliance.

Action Required:

Include safety compliance as part of the evaluation. Quantifiable performance measures should be utilized when evaluating safety compliance.

Standards:

Best Risk Management Practices



Action Item: 2019-025**Observations:**

Volunteers are utilized; however, a Volunteer Handbook has not been developed.

Action Required:

Develop and distribute a Volunteer Handbook to volunteers defining volunteer roles and responsibilities. Provide initial and refresher training to all volunteers at least annually.

Standards:

Best Risk Management Practices

Resources:

A sample policy has been developed and is located on the California JPIA's website.

Action Item: 2019-026**Observations:**

The organization does not have a Volunteer Orientation and Training Program in place.

Action Required:

Develop a Volunteer Orientation Program that includes an introduction to agency policies as well as safety training consistent with the requirements of Cal/OSHA. Field services personnel should have "tailgate" safety meetings on a bi-weekly basis with training sessions lasting a minimum of 15 minutes. For administrative and clerical staff, quarterly safety meetings are adequate. Training should include hazards specific to employee job assignments as well as hazards common to all workplaces and situations. Documentation of these meetings should be maintained for at least three years and be readily available for review by Cal/OSHA or other enforcement agencies.

Standards:

California Code of Regulations, Title 8, Section 3203 (a) (7)

Resources:

Register for workshops online on the California JPIA's website.

Action Item: 2019-027**Observations:**

The agency does not evaluate the driving record of volunteers when driving is a job function.

Action Required:

Require prospective volunteers to provide a current Motor Vehicle Report. This will allow the agency to determine whether prospective volunteers have acceptable driving histories before extending an offer to those where driving is a job function.

Standards:

Best Risk Management Practices

Action Item: 2019-028

Observations:

The agency does not conduct background checks on all volunteers.

Action Required:

Perform background checks on all volunteers, including those who work with or around minors.

Standards:

Public Resources Code, Section 5164, and Penal Code, Section 11105.3

Resources:

A link to additional website resources on Criminal Background Check requirements is located on the California JPIA's website or the National Recreation and Park Association – Operation TLC2 "Making Communities Safe."

Action Item: 2019-029

Observations:

The agency does not have a formal policy and procedure for notifying Cal/OSHA in the event an employee is involved in a serious injury or illness.

Action Required:

A formal policy and procedure should be developed to meet the requirement that Cal/OSHA be notified of serious injury or illness, or death of an employee. Develop a chain of command and designate a key person to notify Cal/OSHA when required.

Standards:

California Code of Regulations, Title 8, Section 342, and Section 330(h)

Resources:

A link to additional website resources has been provided and is located on the California JPIA's website.

Action Item: 2019-030

Observations:

The agency has not developed a Transitional Return to Work Program.

Action Required:

Establish a written Transitional Return to Work Policy for injured or ill employees and volunteers and include this policy in both the Employee and Volunteer Handbooks and respective orientation programs. Individuals who cannot return to their previous work or volunteer functions, either temporarily or permanently, should be medically examined to determine their work capacity, and every effort should be made to accommodate transitional light duty requirements.

Transitional light duty assignments should be identified and developed before injuries occur to best ensure the effectiveness and success of the program. The agency should consider including individuals on light duty assignments in some of the various inspection programs recommended in other formal recommendations contained within this report.

Standards:

Best Risk Management Practices

Resources:

A sample policy has been developed and is located on the California JPIA's website.



Fleet and Driver Management

Action Item: 2019-031

Observations:

Supervisors of commercial vehicle operators have not received the required drug and alcohol awareness training.

The agency's commercial drivers have not received training in alcohol and substance abuse awareness.

Action Required:

Provide required drug/alcohol awareness training to all supervisors overseeing drivers of commercial vehicles. Continue monitoring employees who operate vehicles for improper consumption of alcoholic beverages and use of controlled substances and enroll all commercially licensed drivers in a random drug and alcohol testing program.

Standards:

49 Code of Federal Regulation Part 40; 49 Code of Federal Regulations, Section 382.603

Resources:

Register for workshops online in the Resource Center on the California JPIA's website.

Action Item: 2019-032

Observations:

The agency does not have a formal Commercial Vehicle Inspection Program.

Action Required:

Develop and implement a program to regularly inspect agency commercial vehicles to identify hazardous conditions that require repairs or preventive maintenance. A minimum inspection frequency of monthly is recommended.

Standards:

Best Risk Management Practices

Infrastructure Management**Action Item: 2019-033****Observations:**

The agency has conducted an ADA Self-Evaluation of agency facilities; however, it is not in writing.

Action Required:

Perform a written ADA Self-Evaluation of all public facilities. By January 26, 1993, each public entity was to have evaluated its services, policies and practices to determine their effect on accessibility of public facilities and modify them as necessary.

Standards:

Americans with Disabilities Act, Title II, Section 35.149-151; 28 C.F.R. § 35.104

Resources:

Assistance can be obtained from the following website links:
<http://www.ada.gov/websites2.htm>; <http://www.section508.gov>.

Action Item: 2019-034**Observations:**

The agency has not developed an ADA Transition Plan outlining the steps necessary to achieve barrier-free access.

Action Required:

Develop a formal ADA Transition Plan outlining the steps necessary to complete structural changes to facilities to achieve required accessibility.

Existing buildings were to have been retrofitted to eliminate barriers to program accessibility no later than January 26, 1995. Public entities with 50 or more employees were to have developed a Transition Plan by July 26, 1992. The Transition Plan must identify physical obstacles, describe how the agency will make facilities accessible, outline the schedule for each year's modification efforts, and indicate the official with responsibility for implementation of the Transition Plan as required.

Standards:

Americans with Disabilities Act, Title II, Section 35.149-151; 28 C.F.R. § 35.104

Resources:

Assistance can be obtained from the following website links:
<http://www.ada.gov/websites2.htm>; <http://www.section508.gov>.

Action Item: 2019-035**Observations:**

The agency does not have a formal ADA Grievance Policy or ADA Grievance Coordinator.

Action Required:

Develop a formal ADA Grievance Policy.

Agencies with 50 or more employees must designate a responsible person to coordinate efforts to comply with ADA, carry out responsibilities, and establish grievance procedures that provide for prompt and equitable resolution of complaints alleging prohibited actions.

Standards:

Americans with Disabilities Act, Title II, Section 35.107; 28 CFR Part 35 §35.107, Designation of Responsible Employee and Adoption of Grievance Procedures

Resources:

A sample policy has been developed and is located on the California JPIA's website.

Action Item: 2019-036**Observations:**

The agency has not developed an Asbestos and Lead-Based Paint Awareness Program.

The agency has not formally inspected its facilities for the presence of asbestos and lead-based paint.

Action Required:

Develop and implement an Operations and Maintenance Program to manage exposures to asbestos-containing materials and lead-based paint, consistent with the requirements of the California Code of Regulations, Title 8. The program should include employee awareness training. It should also contain a provision advising all employees, service vendors, contractors, and tenants of the known presence of asbestos-containing materials (ACM) and lead-based paint (LBP) in agency facilities, as well as any pre-1978 facilities that have not been sampled. Awareness training reduces the potential for any accidental disturbance of ACM and LBP, and it ensures that proper response procedures are initiated in the event of an incident.

Standards:

California Code of Regulations, Title 8, Sections 1529, 1532.1, 5198, and 5208
29 CFR 1910.1001, Toxic and Hazardous Substances; Asbestos

Resources:

A sample program is located in the Resource Center on the California JPIA website.

Action Item: 2019-037

Observations:

The agency website does not include Terms and Conditions.

Action Required:

Develop website Terms and Conditions and post them to the agency's website.

Standards:

Best Risk Management Practices

Resources:

A sample policy has been developed and is located on the California JPIA's website.

Action Item: 2019-038

Observations:

A Tree Inspection and Maintenance Program has not been developed or implemented.

Action Required:

Develop and implement a Tree Inspection and Maintenance Program.

Standards:

Best Risk Management Practices

Resources:

A sample policy has been developed and is located in the Resource Center on the California JPIA's website.

Action Item: 2019-039

Observations:

The agency has not established formal sidewalk maintenance and repair standards.

Action Required:

Develop and implement formal inspection and repair standards to guide the inspection and maintenance of sidewalks and related infrastructure features.

Standards:

Best Risk Management Practices

Resources:

A sample policy has been developed and is located on the California JPIA's website.

Action Item: 2019-040

Observations:

While some of the storm drain covers have been retrofitted to ensure that bicycle tires cannot get trapped in grid patterns that run parallel to the direction of traffic, many have not.

Action Required:

Retrofit remaining storm drain covers for bicycle safety.

Standards:

Best Risk Management Practices

Action Item: 2019-041

Observations:

The Agency does not have design plans for all major roadways and related infrastructure.

Action Required:

To preserve design immunity, a comprehensive index should be developed and matched to all major roadways. Identify missing roadway design plans and develop a program to recreate any missing plans through a review of those specific roadways and approval by Council or through those granted discretionary authority.

Standards:

Best Risk Management Practices

Resources:

California JPIA White Paper Series: The Design Immunity

Action Item: 2019-042

Observations:

The following observations were made at the Wescove Day Care:

- o Some of the doormats were torn, curled, and/or damaged. This condition poses trip/fall hazards.
- o One or more of the illuminated exit signs observed were only partially lit.

Action Required:

Repair or replace doormats at front entrance of the day care.

Exit signs should be equipped with light bulbs for all sockets so that the signs are still illuminated even if one bulb fails.

Standards:

California Code of Regulations, Title 8, Section 3273, Working Area; 29 CFR 1910.22 General Requirements - Walking-Working Surfaces; California Fire Code, Section 1011, Exit Signs; California Fire Code, Section 1011.2, Illumination; California Code of Regulations, Title 24, Section 1006, Means of Egress Illumination; NFPA 101, Chapter 5 - Means of Egress



Action Item: 2019-043

Observations:

The following observations were made at the Public Works Department - Maintenance Division:

- At least one of the ladders observed was unsecured and leaning against the wall. These ladder storage practices pose falling object hazards.
- Cross bars were missing from storage racks.
- Compressed gas cylinders were not properly secured.

Action Required:

Ladders should be stored on wall hooks or secured with ropes, straps, or chains to prevent them from falling if struck or during seismic activity.

Determine if current storage racks can safely support the intended load.

Secure compressed gas cylinders with one or more restraints to prevent falling caused by contact, vibration or seismic activity.

Standards:

California Code of Regulations, Title 8, Section 3241, Live Loads; 29 CFR 1910, Subpart D - Walking-Working Surfaces; California Government Code, Section 835 California Fire Code, Section 3003.5.3; 29 CFR 1910.101, Compressed Gases (General Requirements)



Action Item: 2019-044

Observations:

The fire extinguishers are not inspected on a monthly basis.

Action Required:

Ensure that fire extinguishers are visually inspected monthly, consistent with the requirements of Cal/OSHA and California Fire Code.

Standards:

California Fire Code, Section 906, Portable Fire Extinguishers; California Code of Regulations, Title 8, Section 6151, Portable Fire Extinguishers



Action Item: 2019-045

Observations:

It was not determined whether emergency eyewash stations are inspected and tested on a regular basis.

Action Required:

All emergency eyewash stations should be tested and flushed weekly to verify proper operation. Plumbed units should be flushed for a minimum of three minutes.



All inspection information should be documented and maintained for a minimum of one year.

Standards:

California Code of Regulations, Title 8, Section 5162, Emergency Eyewash and Shower Equipment; 29 CFR 1910, Subpart K - Medical and First Aid

Parks and Playground Management

Action Item: 2019-046

Observations:

Detailed installation, maintenance, inspection, and repair records were not available or each piece of playground equipment.

Action Required:

Detailed installation, maintenance, inspection, and repair records for each piece of playground equipment should be established, maintained, and documented.

Standards:

California Health and Safety Code, Sections 115725-115735; CPSC, Publication 325, Public Playground Safety Handbook

Action Item: 2019-047

Observations:

Not all agency-owned playgrounds have been audited by a Certified Playground Safety Inspector (CPSI).

Action Required:

All playgrounds must have an initial inspection completed by a Certified Playground Safety Inspector (CPSI) prior to their use.

Standards:

U.S. Consumer Product Safety Commission's Public Playground Safety Handbook; California Health and Safety Code Sections 115725 – 115750



Action Item: 2019-048**Observations:**

The agency does not have a comprehensive Playground Inspection and Maintenance Program.

Playground inspection and maintenance is contracted through a third party.

Action Required:

A formal, written Playground Safety and Risk Management Program should be developed to include the following:

- A formal policy specifying playground inspection, maintenance, and repair standards;
- An initial audit of playground facilities by a Certified Playground Safety Inspector (CPSI);
- Provision of required signage/labels;
- Ongoing inspection, repair, and maintenance standards;
- Phasing out and/or replacement of hazardous and/or noncompliant equipment;
- Ongoing renovation as needed to comply with ADA accessibility standards; and
- Recordkeeping/documentation standards.

The policy requirements should be outlined in the third-party agreement.

Standards:

ASTM 1487, Standard Consumer Performance Specifications for Playground Equipment for Public Use; U.S. Consumer Product Safety Commission's Public Playground Safety Handbook; California Health and Safety Code Sections 115725 – 115750

Resources:

A sample checklist has been developed to augment parks and playground inspection programs, which are located on the California JPIA's website.

Action Item: 2019-049**Observations:**

The playground equipment coating was peeling or otherwise deteriorated at CA Parquette.

Action Required:

The equipment should be repaired or replaced in accordance with the manufacturer's recommendations.

Standards:

U.S. Consumer Product Safety Commission's Public Playground Safety Handbook; California Health and Safety Code Sections 115725 – 115750



Action Item: 2019-050**Observations:**

The playgrounds at the following parks require preventative maintenance:

- Orangewood Park - peeling signage and graffiti present
- CA Parquette - signage missing or peeling and litter observed
- Cortez Park - signage missing or peeling
- Big League Dreams - signage missing

Action Required:

Focus maintenance on playground equipment, repairing or replacing damaged or worn parts, and fastening devices.

Required signage and/or labels should be repaired or replaced when they become faded, deteriorated, or illegible.

All informational signs should be periodically reviewed for clarity and legibility.

Signs and labels should comply with the description found in Section 14 of ASTM F1487.

Improve housekeeping at CA Parquette.

Graffiti that is allowed to remain visible invites additional graffiti. Prompt response to graffiti is a proven deterrent to future graffiti.

Standards:

U.S. Consumer Product Safety Commission's Public Playground Safety Handbook;
California Health and Safety Code Sections 115725 – 115750

Resources:

Sample checklists have been developed and are located on the California JPIA's website.



Action Item: 2019-051

Observations:

The surfacing beneath the playgrounds at CA Parquette and Cortez Park are not properly maintained.

The transition from the concrete to the playground areas was uneven.

These conditions pose trip/fall hazards.

Action Required:

Depending on the playground location, weather conditions, watering patterns, and frequency of use, weekly maintenance may be necessary to ensure adequate depth and to loosen surfacing material that may have become compressed.

Improve maintenance of playground protective surfaces. Add more surfacing to fall zones and the most frequently used play areas. Make sure that the surfacing under and around playground equipment is uncompressed and of an appropriate depth.

Standards:

U.S. Consumer Product Safety Commission's Public Playground Safety Handbook; California Health and Safety Code Sections 115725 – 115750



Action Item: 2019-052**Observations:**

Park inspection and maintenance is contracted through a third party.

The Agency should develop a formal inspection policy and include in the third-party agreement.

Action Required:

Perform regular, formal inspections of parks and fields to identify hard ground; damaged, depressed, or protruding irrigation components; excessive wet areas; missing delineations; holes or divots in the play surface; foreign objects; and fields in need of reseeding. Inspections should also include a review of park lighting, walking surfaces, benches/bleachers, fences, parking areas, and other site-specific features. Identified deficiencies should be corrected in accordance with agency policy.

Resources:

A sample checklist has been developed to augment parks and playground inspection programs, which are located on the California JPJA's website.

Action Item: 2019-053

Observations:

The Skate Park's rules sign is small and deteriorating. Some rules, like when the park allows mixed use, were not readily apparent.

Graffiti was present in some areas. The presence of graffiti invites additional graffiti. Prompt response to graffiti is a proven deterrent to future graffiti.

The agency does not formally inspect the Skate Park.

Participants at the Skate Park were not using helmets and mixed use was observed when it is not allowed.

Action Required:

The skate park rules should be re-printed in a large, clear format that can be easily read from ten feet away. The signs should reference the information noted in Section III (10) of the California JPIA's Recommended Risk Management Guidelines for skate parks.

Graffiti should be removed.

Formal inspections should be conducted at the Skate Park. Documentation should take form of checklists or other similar documentation. Records of corrective actions should be retained.

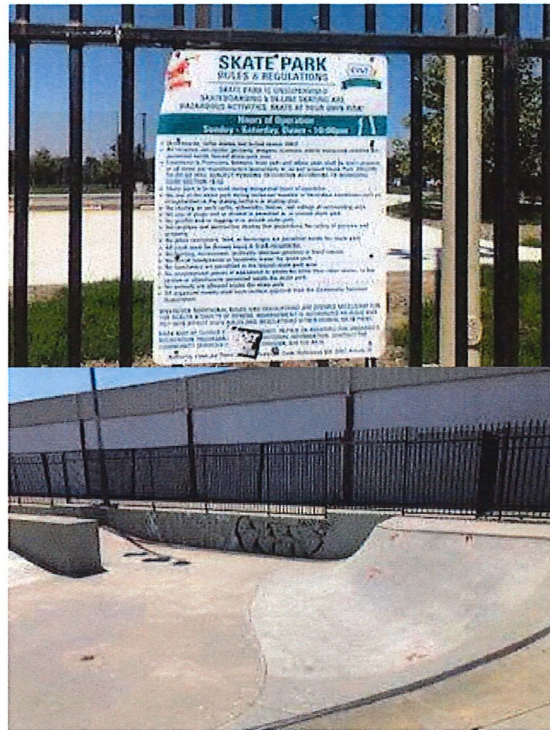
Ensure the agency's existing skate park ordinances are followed and enforced.

Standards:

Best Risk Management Practices

Resources:

AB1296 Section III (10) of the California JPIA's Recommended Risk Management Guidelines for Skate Parks.



Action Item: 2019-054**Observations:**

A temporary makeshift ramp was observed at the entrance to the Skate Park.

The damaged ramp is a trip and fall hazard.

Action Required:

Repair, replace, or remove the ramp.

Standards:

California Code of Regulations, Title 8, Section 3203

**Action Item: 2019-055****Observations:**

It was not determined whether the bleachers/grandstands are inspected and serviced on a regular basis.

Bleacher structures and grandstands present a loss exposure due to falls and/or structure failure.

Action Required:

Retrofit or replace bleachers that do not meet the current guidelines for bleachers.

The grandstands and bleachers should be inspected annually and required maintenance performed to ensure safe conditions. At least biennially, the inspection should be performed by a professional engineer or registered architect. If required by the authority having jurisdiction, the agency should provide certification that both inspections have been performed.

Standards:

U.S. Consumer Product Safety Commission's Publication Number 330-000011, Guidelines for Retrofitting Bleachers; National Fire Protection Association (NFPA) 102, Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures; Publication 330, Guidelines for Retrofitting Bleachers, United States Consumer Product Safety Commission; California Code of Regulations, Title 24, Section 1028.1.1, Bleachers

Resources:

A link to the Guidelines for Retrofitting Bleachers is located on the California JPIA's website.

Recreation and Community Services**Action Item: 2019-056****Observations:**

The agency's waiver requires the participant or participant's parent/guardian to hold the agency harmless from any liability. Participant waivers should not release any party from any act or omission of gross negligence, as the term is used in applicable case law and/or statutory provision.

Action Required:

Revise the participant waiver to conform to accepted best practices, using the suggested language outlined in the Contractual Risk Transfer for California Public Agencies Manual.

Resources:

Contractual Risk Transfer for California Public Agencies manual. California JPIA, Seventh Edition, 2018

Action Item: 2019-057**Observations:**

Waivers for minors are retained for only one year.

Action Required:

Waivers involving minors should be retained for at least three years after the participant has reached 18 years old. The agency's Records Retention Policy should be revised as needed to reflect this policy. Waivers should be retained in accordance with the agency's Records Retention Policy.

Standards:

Best Risk Management Practices

Action Item: 2019-058**Observations:**

Contracted instructor agreements are not required to provide insurance; however, they are still required to sign agreements with indemnity language.

Action Required:

Include appropriate indemnity language in agreements with contractor instructors and require sufficient insurance to support the indemnity provisions.

Standards:

Best Risk Management Practices

Resources:

Contractual Risk Transfer for California Public Agencies manual. California JPIA, Seventh Edition, 2018

Action Item: 2019-059

Observations:

Certain contractors, including Independent Contractors for recreation classes, are not providing certificates of insurance.

By properly managing its contracts, the agency can reduce its loss exposures and likewise reduce disputes with contractors and their insurers when a loss occurs.

Action Required:

Develop contract documentation tracking procedures to monitor contractor compliance with contract provisions and to ensure that insurance documents required in contracts are received in a timely fashion. Develop a system to ensure that contractors provide certificates of insurance and policy endorsements before they are allowed to begin work. Contractors should be notified immediately in writing when insurance documentation is deficient or is not received as required.

Resources:

Contractual Risk Transfer for California Public Agencies manual. California JPIA, Seventh Edition, 2018

Action Item: 2019-060

Observations:

The agency does not have written agreements for all individuals or groups who use the agency's recreational facilities.

Action Required:

Utilize rental agreements with all agency facility renters. The rental agreement should include indemnification and hold harmless language, and it should contain insurance requirements as recommended by the California JPIA. Require facility renters to provide evidence of sufficient insurance to support the indemnity agreements in the facility rental agreements.

Compliance with insurance requirements should be monitored and consistently enforced.

When third-party users do not have, or are unable to obtain general liability insurance, consider using the California JPIA Special Event Coverage when possible.

Standards:

Best Risk Management Practices

Resources:

A sample facility rental agreement has been developed and is located on the California JPIA's website.



Action Item: 2019-061

Observations:

The agency does not have a policy addressing at what age staff or volunteers are permitted to work around minors.

It is important to note that juvenile criminal records may not be accessible and/or disclosed to the agency.

Action Required:

Develop and implement a policy specifying what age an employee or volunteer is permitted to work around youth unsupervised. Provide training to staff and volunteers on all provisions of the policy.

Standards:

Best Risk Management Practices



Law Enforcement Services

Action Item: 2019-062

Observations:

The following was observed at the Police Department:

- Evidence of leaks and/or other water intrusion were present in the server room and the female jail cell. Some of the damage appears to be potentially substantial. Water intrusion and the presence of moisture in building materials can foster the growth of mold and mildew.
- Regulated hazardous waste was idly stored. It was not determined whether plans were in place to remove this waste.
- Computer room server data cables are unorganized and could present a trip and fall hazard.
- Electric panelboards and switchboards were obstructed with stored materials and/or furnishings. Obscuring and obstructing electric panelboard cabinets and/or switchboards delays or prevents access in an emergency.

Action Required:

The source of the water intrusion should be determined and corrective action taken to prevent recurrence.

Wall coverings, ceiling tiles, floor coverings, and wall and ceiling insulation should be inspected to identify the presence of damage or mold growth. Both exposed and concealed surfaces should be inspected.

Damaged and contaminated materials should be removed and disposed of in a way that prevents their continued use.

The entire damaged or contaminated area should be cleaned and disinfected with an effective fungicide prior to installing new materials.



Regulated waste should be stored and removed in accordance with Agency policy and other applicable regulations.

Practice cable management in server room to avoid potential trip & fall injuries.

Ensure that all electric panels in agency facilities have clear and unobstructed access (minimum 30-inch clearance) and are properly labeled, closed, and latched, consistent with the requirements of California Fire Code.

Standards:

California Code of Regulations, Title 8, Section 3362, Sanitation, General Requirements; California Code of Regulations, Title 8, Section 3203 (a) (4); California Code of Regulations, Title 8, Section 2340.16, Work Space About Electric Equipment; California Code of Regulations, Title 19, Section 3.01, Basic Electrical Regulations; California Code of Regulations, Title 24, Part 9, California Fire Code, Section 605.3, Working Space and Clearance; 29 CFR 1910, Subpart S - Electrical



Fire Department Operations

Action Item: 2019-063

Observations:

Evidence of leaks and/or other water intrusion was present at Fire Station 1.

Water intrusion and the presence of moisture in building materials can foster the growth of mold and mildew.

Action Required:

The source of the water intrusion should be determined and corrective action taken to prevent recurrence.



Wall coverings, ceiling tiles, floor coverings, and wall and ceiling insulation should be inspected to identify the presence of damage or mold growth. Both exposed and concealed surfaces should be inspected.

Damaged and contaminated materials should be removed and disposed of in a way that prevents their continued use.

The entire damaged or contaminated area should be cleaned and disinfected with an effective fungicide prior to installing new materials.

Standards:

California Code of Regulations, Title 8, Section 3362, Sanitation, General Requirements; California Code of Regulations, Title 24, Section 3401.2, Maintenance

Report Summary

The information noted in this report is based upon an assessment of your agency's overall operations. Because the evaluation is only a snapshot in time, your agency should continue evaluating its risk management practices, and take action as necessary when conditions change. Your agency need not wait on a formal process to identify its risk exposures.

Each observation was carefully documented, and attention was given to ensure its accuracy. The observations identify risk exposures that, if not addressed, have the potential to adversely impact your agency's operations. Thank you again for your partnership in completing this undertaking.



Agency Exemplar

An Agency Exemplar has a structure in place to effectively lead agency-wide risk management policies and practices. These policies and practices are part of the organizational culture. Such policies and practices include the adoption and implementation of the following:

1. Injury and Illness Prevention Program
2. Citizen complaint logging system
3. Americans with Disabilities Act Compliance Program
4. Safety/risk management committee
5. Records retention policy
6. Employee training programs
7. Environmental protection programs
8. Contracts administration
9. Evaluation of general liability claims for frequency and severity trends
10. Evaluation of workers' compensation claims frequency and severity trends

As the agency's leadership embraces risk management through agency-wide policies and practices, each department and division will have their own areas of responsibilities including:

1. Human Resources

- Personnel manual
- Employee handbook
- Standard hiring practices
- Safety manual
- Cal/OSHA compliance training
- Discrimination and harassment training
- Discrimination and harassment complaint processing
- Management, direction, and control of volunteers
- Violence in the work place policy
- OSHA 300 log and summary
- DMV pull notice
- Proper driver licenses
- Supervisor training for reasonable suspicion testing for drug/alcohol abuse
- Transitional return to work policy
- Interactive/reasonable accommodation process (ADA/FEHA)
- Job descriptions include job function analysis elements
- Social media policy
- Mandated reporter program and training



2. Public Works/Public Service

- Supervisor Training
- Safety training for field personnel based on job duties
- Water treatment
- Water distribution
- Wastewater treatment
- Sanitary sewer operations
- Confined space
- Trench spaces
- Facilities maintenance
- Fleet maintenance
- Vehicle inspection and maintenance programs
- Traffic control
- Lockout/Blockout program
- Sidewalk inspection and maintenance program
- Tree inspection and maintenance program
- Defensible space/vegetation management program
- Proper driver licenses

3. Facilities and Infrastructure

- Asbestos and lead based paint operations and maintenance programs and awareness training
- Facility inspection and maintenance program
- Pavement management inspection and maintenance program
- Parks and playground inspection and maintenance program
- Streetlight inspection program
- Power generation facilities protocols
- Evaluation of property claims for frequency and severity trends

4. Recreation and Community Services

- Participant waivers and application program
- Facility use procedure and agreements
- Proper indemnification and hold-harmless clauses in contracts
- Compliant day care programs
- Mandated reporter program and training

5. Animal Control (not applicable to agency)

- Employee training
- Policies and procedures for handling of animals
- Waivers and indemnity agreements for animal release or adoption

6. Police Services (not applicable to agency)

- Lexipol policy manual and daily training bulletin service
- POST training requirements



7. Fire Services (not applicable to agency)

- Policy manual in place and current
- Hearing protection
- Special operational programs and training
- Hazardous material
- Trench rescue
- Swift water rescue
- Confined space entry
- Advanced Life Support

Managed risks are of great importance. The consequences of ignoring their importance include lost employee time, increased operational costs and payment of claims. Furthermore, an agency's fiduciary responsibility means that it owes a high standard of care to protect public funds. More importantly, the obligation to safeguard workers, the public, and assets should compel every organization to manage risk effectively. An Agency Exemplar must manage risk exposures by:

1. Examining feasible alternative for addressing exposures
2. Selecting and implementing best risk management techniques
3. Monitoring results of the chosen techniques to ensure effectiveness, and modify if necessary

An Agency Exemplar must also view risk management holistically by recognizing its scope:

1. Casualty and/or hazard risk (accidents – including property, liability, personnel)
2. Cash flow risks (insufficient cash or assets to function normally in the event of a major loss)
3. Operational risk (not being able to fulfill the organization's mission, exposing the stakeholders, lack of succession planning)
4. Political risk (adverse action of governments that might expropriate or excessively restrict or tax an organization's assets and activities)
5. Technological risk (failure to keep pace with changes in operating techniques, and security protection)
6. Reputational risk (risk of loss resulting from not being able to maintain a good name or standing)

In conclusion, an Agency Exemplar begins and ends with the belief that an individual who is charged with managing the organization overall, then creates a culture in which all others similarly are committed to risk management.

It is the Authority's desire to support each member in becoming an Agency Exemplar. The Authority is committed to assisting each member in working toward this goal.



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

SUBJECT: CONSIDERATION OF THE SALE OF SURPLUS VEHICLES AND EQUIPMENT

RECOMMENDATION:

It is recommended that the City Council, in accordance with West Covina Municipal Code Chapter 2, Article VII, Division I, Section 2-316, authorize the sale of the surplus vehicles listed below by the public auction company US Auctions.

DISCUSSION:

The 30 surplus vehicles and equipment listed below have exceeded their useful life expectancies and are no longer useful to any City department; they meet the criteria for being declared surplus City property. The Fleet Services Coordinator compiled the list of surplus equipment and ranked the condition of the vehicles as indicated in the "Category" column. The funding source used to originally purchase the vehicles is indicated in the "Funding Source" column.

Item No.	Unit No.	Year/Make/Model	VIN/Serial Number	Mileage	Funding Source*	Category**
1	108	2001 GMC W4	4KDB4B1R31J802555	124,086	110	1,2
2	109	1992 GMC 3500	1GDJC34KXNE540972	107,725	110	1,2
3	112	1980 Ford C-700	C70HVVD5743	80,142	110	1,2
4	119	1998 Ford LT8501 Vactor Jetter	1FDZW86E6WVA39996	41,321	110	1,2,4
5	123	1993 GMC C-2500	1GDGC24K3PE549956	124,939	110	1,2
6	124	1993 GMC C-2500	1GDHC34K6PE557852	89,925	110	1,2,4
7	135	1992 GMC 3500 W/Hyd Lift	1GDJC34K9NE541546	120,950	110	1,2
8	136	1999 GMC Dump Truck	4KLB4B1R5XJ004300	135,556	110	1,2
9	137	2001 Ford F350	1FDWW36S81EA36196	122,593	110	1,2
10	140	1985 Case 480L Loader	9864196	1,618	110	1,2,4
11	141	1987 Case Roller W252	8408675560	991	110	1,2,4
12	146	1988 GMC stake Bed Dump	J8DM7A1N6J3201218	46,075	110	1,2
13	148	1993 GMC C-3500	1GDHC34K0PE557247	79,489	110	1,2
14	162	1988 John Deere 544E Loader	DW544ED518283	6,386	110	1,2
15	203	2007 Ford F-150	1FTRF12W97KC61462	157,794	110	1,2,3

16	204	2007 Ford F-150	1FTRF12W07KC61463	149,720	110	1,2,3
17	213	1992 GMC 3500	1GDJC34K6NE541486	95,472	110	1,2,3
18	713	1982 CAT Generator	CA698528	N/A	110	1,2,3
19	718	1985 Case Backhoe	17025944	N/A	110	1,2,3
20	T142	1987 Ziemann Trailer	1ZCT21S24HZP13427	N/A	110	1,2,3,4
21	T190	2005 Pressure Washer & Trailer	N/A	N/A	110	1,2,3,4
22	STA4	1979 Onan Generator	C78311584	N/A	110	1,2,4
23	B18	2006 Ford Mustang	1ZVFT80N165244843	160,472	117	1,2,4
24	D13	2007 Chevrolet Impala	2G1WT58N579288606	113,663	117	1,2,4
25	47	1991 GMC Sonoma	1GTCT14Z8M8518495	43,108	110	1,2,3
26	45	1990 GMC C-2500	1GTFC24H2LZ555674	18,442	110	1,2,3,4
27	P29	2011 Ford Interceptor	2FABP7BV8BX176231	89,810	117	1,2,4
28	P16	2011 Ford Interceptor	2FABP7BV0BX176109	116,513	117	1,2,4
29	P46	1993 GMC 3500	1GTHC33F0PJ757576	69,710	110	1,2,3,4
30	D34	2006 Ford Crown Victoria	2FAHP71W36X155068	100,225	110	1,2,3,4

***Funding Source:**

110 - General Fund

117 - Asset Forfeiture Fund

****Category:**

1. Vehicle/equipment exceeds its useful life expectancy.
2. Vehicle/equipment repairs exceed its salvage value.
3. Vehicle/equipment no longer useful to using department.
4. Vehicle/equipment no longer dependable.

The City has used US Auctions successfully in the past to auction surplus vehicles. The company is highly respected and widely used, and a certified Small Business by the State of California.

OPTIONS:

The City Council has the following options:

1. Approve staff's recommendation;
2. Continue to maintain the 30 surplus vehicles and equipment; however, this is not recommended as maintaining these vehicles will be inefficient and costly; or
3. Provide alternative direction.

Prepared by: Mike Cresap Public Services Superintendent

Fiscal Impact

FISCAL IMPACT:

The net proceeds from the sale of the surplus vehicles and equipment will be returned to the City and will be credited to those funds which purchased the property, such as the General Fund, Asset Forfeiture Fund, etc.

CITY COUNCIL GOALS & OBJECTIVES: Achieve Fiscal Sustainability and Financial Stability



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

**SUBJECT: CONSIDERATION OF CODE AMENDMENT NO. 16-03 - WIRELESS
TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY**

RECOMMENDATION:

That Planning Commission recommends that the City Council consider a Zoning Code Amendment as follows:

ORDINANCE NO. 2470 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING CODE AMENDMENT NO. 16-03, RELATED TO WIRELESS TELECOMMUNICATION FACILITIES IN THE PUBLIC RIGHT OF WAY

BACKGROUND:

On February 16, 2016, the City Council initiated a code amendment related to wireless telecommunication facilities in the public-right-of-way.

The Federal Telecommunications Act is intended to ensure that the public has sufficient access to telecommunication services and local governments cannot prohibit or have the effect of prohibiting the provision of personal wireless services. Cities may only regulate the location and design of Wireless Communication Facilities (WCF) based on aesthetics.

On September 27, 2018, the Federal Communications Commission (FCC) released a Declaratory Ruling and Third Report and Order (FCC Order) significantly limiting local management of Small Wireless Facilities (SWF). In summary, the FCC Order does the following:

- Defines SWFs as facilities (a) mounted on structures 50 feet or less in height (including antennas); or (b) mounted on structures no more than 10% taller than other adjacent structures; or (c) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10%, whichever is greater; AND each antenna is no more than 3 cubic feet in volume, and the total associated wireless equipment on one structure is no more than 28 cubic feet in volume.
- Limit fees local governments can charge to the actual and reasonable cost of providing service.
- Enacts shot clocks of 60 days for SWFs added to existing structures (regardless of whether the structure already supports a wireless service) and 90 days for SWFs proposing a new structure.
- Exempts from federal preemption aesthetic requirements for SWFs in the PROW unless they are (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance.

On April 4, 2019, the California Supreme Court decided T-Mobile West, LLC vs. City and County of San Francisco, validating that municipalities can regulate the aesthetics of wireless facilities in the right of way.

On April 23, 2019, the Planning Commission adopted design guidelines for small wireless facilities located in the public right-of-way (Attachment No. 3), consistent with the current Municipal Code, to address the FCC Order pertaining to aesthetic requirements being reasonable, not burdensome, and published in advance. At its May 14, 2019 and July 23, 2019 meetings, the Planning Commission held study sessions on wireless facilities in the public right-of-way. During the July 23, 2019 study session, the Planning Commission voted 3-2 to direct staff to draft an ordinance that:

- References Design Guidelines in order to allow flexibility for modifications that may be needed in the future;
- Allows administrative review by staff for all wireless facilities in compliance with Design Guidelines and Planning Commission review if not in compliance with Design Guidelines;
- Identifies a review threshold that requires wireless telecommunication facilities to be at least 250 feet from another wireless telecommunication in order to qualify for administrative review by staff;
- Requires wireless telecommunication facilities to be set back 15 to 30 feet from residential structures (depending on zoning designation).

Commissioners Heng and Holtz were the dissenting votes. Commissioner Heng felt that there should be more Planning Commission discussion on the subject.

Subsequent to that discussion, Administrative Use Permit (AUP) applications were submitted for 5 small wireless facilities in the public right-of-way proposed mounted to replacement street light poles in the Woodside Village area. These facilities were located off of Amar Road, east of Azusa Avenue. The Planning Commission approved the AUP applications on July 23, 2019 and an appeal was filed on August 5, 2019. On October 1, 2019 the City Council voted 3-2 to overturn the Planning Commission's decision to approve the 5 small wireless facilities and denied the AUP applications. The City Council felt that the proposed small wireless facilities were not sufficiently concealed. Councilmembers Shewmaker and Johnson were the dissenting votes and felt that the proposals should be referred back to the Planning Commission.

On November 26, 2019, the Planning Commission held a public hearing to review Code Amendment No. 16-03 (Attachment No. 4). The Planning Commission continued the hearing to January 28, 2020 in order to allow interested parties that might not have been available during the week of Thanksgiving the opportunity to attend the hearing. In addition, the Planning Commission gave staff direction to obtain the following information;

1. Standards for 10 nearby cities on design and separation
2. Clarify if RF Engineers are State licensed
3. Clarify if the FCC keeps records of RF compliance reports
4. Clarify the standard size for the base of light poles, and
5. Clarify the standard used by the City of Costa Mesa regarding a 500-foot separation from a provider's facility.

In response to the direction provided by the Planning Commission on November 26, 2019 (Attachment No. 5), staff surveyed the cities of Baldwin Park, Covina, Diamond Bar, Irwindale, La Puente, City of Industry, San Dimas, Walnut, Glendora, and El Monte. Staff also researched Costa Mesa's standards and guidelines for Small Wireless Facilities in the Public Right-of-Way.

On the January 28, 2020 Planning Commission meeting, staff presented the following table summarizing the information obtained from the survey:

City	Process	Distance from Residential	Separation between Facilities/Poles
Baldwin Park	Compliance with Design Guidelines - Administrative (Planning Commission review, if not in compliance)	None	None
Covina	Encroachment Permit issued by Public Works	None	None
Irwindale	Processed by Public Works	None	None
La Puente	Encroachment Permit Only	None	None
City of Industry	Administrative	None	None
Diamond Bar	Administrative	Height of pole plus 20%	None
San Dimas	Compliance with Design Guidelines - Administrative (Planning Commission if not in compliance)	None	None
Walnut	Administrative	None	None
Glendora	Administrative for Minor; Planning Commission (CUP) for Major	None	None
El Monte	Administrative	None	None
Costa Mesa	Administrative (Minor CUP), Planning Commission triggered by Non-compliance with adopted Design Guidelines	25 feet (per Design Guidelines, review threshold only)	500 feet (per Design Guidelines, review threshold only)

Staff also provided the Planning Commission information on radio frequency (RF) engineer licensing (State licensed electrical engineer) and the average diameter of light poles in the City (ranges from 8.5-inches to 9.25-inches in diameter).

Commissioner Heng expressed her preference that small wireless facility applications be reviewed on a case-by-case basis. She requested that the Design Guidelines for Wireless Telecommunication Facilities in the Public Right-of-Way be revisited by the Planning Commission concurrently with the code amendment. Commissioner Heng asked about the D.C. Circuit's August 9, 2019 decision in *United Keetoowah Band of Cherokee Indians in Okla. v. FCC*.

Deputy City Attorney Bettenhausen clarified that the case has no direct impact on West Covina because the City is not involved in the issuance of spectrum.

Three members of the public provided comments during the Planning Commission meeting: Mr. Fred Sykes is in opposition to all wireless facilities; Ms. Mimi Quan spoke in favor of adopting stricter regulations with public input for all applications; and Mr. Raymond Quan urged the Commission to adopt stricter aesthetic standards and regulations.

The Planning Commission voted 4-1 (Commissioner Heng was the dissenting vote) to approve Resolution No. 20-6018 (Attachment No. 2) recommending the City Council adopt Code Amendment No. 16-03 as presented.

This item was initially in the March 14, 2020 City Council Meeting agenda, but was continued by the City Council to a date uncertain because the Covid-19 situation was continuing to emerge and the City's first virtual meeting was not the appropriate moment to discuss the Code Amendment.

DISCUSSION:

The proposed Code Amendment would add a new section to the Zoning Code regarding Wireless Telecommunications Facilities in the Public Right-of-Way (Attachment No. 1). The existing standards for facilities outside the public right-of-way would remain in effect and be renamed Wireless Telecommunication Facilities Within All Land Use Zones. The Wireless Telecommunication Facilities section is located in the Zoning portion of the Code and does not reference SWF's in the public right-of-way. Existing SWF's in the City were approved by the Engineering Division through an encroachment permit which does not require review by Planning, noticing or a public hearing. Engineering approvals go back to the early 2000's and include seven sites in the City that are documented. In light of the Federal order, it is important for the City to adopt standards for SWF's to ensure the City has a legal framework to rely upon.

The draft ordinance provides the following changes to the West Covina Municipal Code (WCMC):

Division 3. - Conditional Use Permit (Section 26-247)

- Clarifies that the existing conditional use permit findings are for projects located within all land-use zones (areas with a zoning designation).
- Cross-references findings within Section 26-685-11500 for projects located within the public right-of-way.

Division 16 - Wireless Telecommunication Facilities

- Clarifies that Division 16 (Wireless Telecommunication Facilities Within All Land Use Zones) will not apply to wireless telecommunication facilities in the public right-of-way.
- Cross-references where the code section pertaining to wireless telecommunication facilities in the public right-of-way is located and directs readers to the newly created Division 29 (Wireless Telecommunications Facilities in the Public Right-of-Way).

Division 29 - Wireless Telecommunication Facilities in the Public Right-of-Way

- New division created in the Municipal Code.
- Requires an Administrative Review application for minor wireless telecommunication facility permits (small wireless facilities or eligible facilities that comply with the adopted design guidelines, and are located at least 250 feet from another wireless telecommunication facility, and/or at least 250 feet from a proposed wireless telecommunication facility within the same application bundle). This process would be an administrative process by staff with no notification and no hearing.
- Requires a Conditional Use Permit for wireless telecommunication facilities that do not qualify for an Administrative Review (major wireless telecommunication facility permits). The Conditional Use Permit would require notification and a hearing by the Planning Commission.
- Identifies that Planning Division, Planning Commission, and/or City Council approval does not constitute an encroachment permit and/or the issuance of permits from other City divisions/departments or other government entities.
- Identifies application submittal requirements and application review procedures. Items required for submittal include: application fee, completed application, construction drawings/plans, site survey, photosimulations (360 degrees), project narrative and justifications, RF compliance report, proof of regulatory authorization,

site agreement, acoustic analysis, wind load analysis, environmental data, traffic control plan, landscape plan, certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, master deployment plan (for small wireless facilities), and visual impact analysis (in cases where a CUP is required).

- Identifies design and development standards including: concealment requirements and reference to design guidelines, location (e.g. not in median, set back from residential structures), noise, landscaping, accessory equipment (undergrounding), support structures (pole mounted only), and obstructions for public safety prohibited.
- Identifies operation and maintenance standards
- Outlines procedures for permit expiration, abandonment, removal, and legal non-conforming facilities.

LEGAL REVIEW:

The City Attorney's Office has reviewed the proposed ordinance as to form and content and has concluded that they are in compliance with both State and federal law.

OPTIONS:

The City Council has the following options:

1. Approve the Planning Commission's recommendation; or
2. Provide alternative direction

ENVIRONMENTAL REVIEW:

The proposal is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to activity that results in direct or reasonably foreseeable indirect physical change in the environment and for activity considered to be a project, respectively. The amendment to the West Covina Municipal Code would not result in a physical change in the environment because it would clarify submittal requires and create development standards for future applications for wireless telecommunication facilities in the public right-of-way.

Prepared by: Jo-Anne Burns, Planning Manager

Fiscal Impact

FISCAL IMPACT:

The proposed code amendment will have no fiscal impact. Applicants will be required to pay fees to cover any staff costs as well as hard costs required to process applications.

Attachments

- Attachment No. 1 - Ordinance No. 2470
- Attachment No. 2 - Planning Commission Resolution No. 20-6018
- Attachment No. 3 - Signed Resolution Design Guidelines
- Attachment No. 4 - Nov 26, 2019 Minutes (Excerpt)
- Attachment No. 5 - Jan 28, 2020 Minutes (Excerpt)

CITY COUNCIL GOALS & OBJECTIVES: Enhance the City Image and Effectiveness
Engage in Proactive Economic Development

ORDINANCE NO. 2470

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING CODE AMENDMENT NO. 16-03, RELATED TO WIRELESS TELECOMMUNICATION FACILITIES IN THE PUBLIC RIGHT OF WAY

WHEREAS, the City's provisions for wireless telecommunication facilities were last updated in 2011.; and

WHEREAS, the City's Municipal Code currently does not have explicit regulations pertaining specifically to wireless telecommunication facilities in the public right-of-way; and

WHEREAS, on the 16th day of February 2016, the City Council initiated a code amendment related to wireless telecommunication facilities in the public right-of-way; and

WHEREAS, the Planning Commission, did on May 14, 2019 and July 23, 2019, conduct study sessions to consider the initiated code amendment; and

WHEREAS, the Planning Commission, upon giving the required notice, did on the 26th day of November 2019 and 28th day of January 2020, conduct a duly advertised public hearing as prescribed by law to make recommendations to the City Council to approve Code Amendment No. 16-03; and

WHEREAS, the City Council, upon giving the required notice, did on the 5th day of May 2020, conduct a duly advertised public hearing as prescribed by law on the proposed ordinance; and

WHEREAS, based on review of the State CEQA Guidelines, the City Council finds and determines that the proposed ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment; and

WHEREAS, the City Council has duly considered all information presented to it, including written staff reports and any testimony provided at the public hearing, with all testimony received being made a part of the public record.

WHEREFORE, THE MAYOR AND THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY ORDAINS AS FOLLOWS:

SECTION NO. 1: Section 26-247 of the West Covina Municipal Code is hereby amended to read as follows:

(a) Prior to the granting of a conditional use permit for projects located within all land-use zones it shall be found:

- (1)(a) That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or community.
- (2)(b) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.
- (3)(c) That the site for the proposed use is adequate in size and is so shaped as to accommodate said use, as well as all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to adjust said use to the land and uses in the neighborhood and make it compatible therewith.
- (4)(d) That the site abuts streets and highways adequate in width and improvements to carry traffic generations typical of the proposed use and that street patterns of such a nature exist as to guarantee that such generations will not be channeled through residential areas on local residential streets.
- (5)(e) That the granting of such conditional use permit will not adversely affect the general plan of the city, or any other adopted plan of the city.

(b) Prior to the granting of a conditional use permit for projects located within the public right-of-way it shall be found that the findings required by Sec. 26-685-11500 have been met.

SECTION NO. 2: The Chapter 26, Article XII, Division 16 title of the West Covina Municipal Code is hereby amended to read as follows:

DIVISION 16 – WIRELESS TELECOMMUNICATION FACILITIES WITHIN ALL LAND-USE ZONES

SECTION NO. 3: Section 26-685.983 of the West Covina Municipal Code is hereby amended to read as follows:

The regulations of this division do not apply to the following:

- (1) Single ground-mounted, building-mounted, or roof-mounted receive-only AM/FM radio or television antennas, DBS dish antennas, amateur and/or citizens band radio antennas, for the sole use of the occupant of the parcel on which the antenna is located.
- (2) Wireless telecommunications facilities owned and operated by the city or other public agency when used for emergency response services, public utilities, operations, and maintenance.
- (3) This exemption does not apply to free-standing or roof-mounted satellite dish antennas greater than twenty-one (21) inches in diameter.

- (4) Wireless telecommunication facilities located in the public right-of-way, which are regulated under Article XII (Special Regulations for Unique Uses), Division 29 (Wireless Telecommunication Facilities in the Public Right-of-Way) of this chapter.

SECTION NO. 4: Section 26-685.984 of the West Covina Municipal Code is hereby amended to read as follows:

- (a) No wireless telecommunication facilities are permitted in residential zones except for the following:
- (1) Wireless telecommunication facilities listed under section 26-685.983(1) and (2).
 - (2) Wireless telecommunication facilities located in the public right-of-way, which are regulated under Article XII (Special Regulations for Unique Uses), Division 29 (Wireless Telecommunication Facilities in the Public Right-of-Way) of this chapter.
 - (3) Wireless telecommunication facilities located in residential zones that are developed with permitted nonresidential uses.
 - (4) Wireless telecommunication facilities consisting of roof-mounted antennas located on multiple-family residential buildings.
- (b) Antennas with a solid or wire-mesh surface with a diameter or maximum width greater than twelve (12) feet are prohibited in residential zones.

SECTION NO. 5: Division 29 is hereby added to Chapter 26, Article XII of the West Covina Municipal Code to read as follows:

DIVISION 29 – WIRELESS TELECOMMUNICATION FACILITIES IN THE PUBLIC RIGHT-OF-WAY

Sec. 26-685.11000. – Purpose

This division sets forth a uniform and comprehensive set of development standards for the permitting, development, placement, design, installation, operation, and maintenance of wireless telecommunication facilities within the city's public right-of-way. The purpose of these regulations is to provide clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This division provides standards necessary (1) for the preservation of the public right-of-way ("PROW") in the city for the maximum benefit and use of the public, (2) to promote and protect public health and safety, community welfare, and the aesthetic quality of the city consistent with the goals, objectives and policies of the general plan, and (3) to provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules and regulations, including those regulations of the Federal Communications Commission ("FCC") and California Public Utilities Commission

("CPUC"), and (4) to ensure that the use and enjoyment of the PROW is not inconvenienced by the use of the PROW for the placement of wireless facilities.

Sec. 26-685.11100. - Applicability

- (1) This division applies to the siting, construction or modification of any and all wireless telecommunications facilities proposed to be located in the public right-of-way.
- (2) Pre-Existing Facilities in the PROW. Nothing in this division shall validate any existing illegal or unpermitted wireless facilities. All existing wireless facilities shall comply with and receive an encroachment permit, when applicable, in order to be considered legal and conforming.
- (3) This division does not apply to the following:
 - (a) Amateur radio facilities;
 - (b) OTARD antennas;
 - (c) Facilities owned and operated by the city for its use or for public safety purposes;
 - (d) Any entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement, excepting that to the extent such the terms of state or federal law, or franchise agreement, are preemptive of the terms of this division, then the terms of this division shall be severable to the extent of such preemption and all remaining regulations shall remain in full force and effect. Nothing in the exemption shall apply so as to preempt the city's valid exercise of police powers that do not substantially impair franchise contract rights;
 - (e) Installation of a COW or a similar structure for a temporary period in connection with an emergency or event at the discretion of the city engineer, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.
- (4) Public Use. Except as otherwise provided by state or federal law, any use of the PROW authorized pursuant to this division will be subordinate to the city's use and use by the public.

Sec. 26-685.11200. - Definition

- (1) "Accessory equipment" means any and all on-site equipment, including, without limitation, back-up generators and power supply units, cabinets, coaxial and fiber optic cables, connections, equipment buildings, shelters, vaults, radio transceivers, transmitters, pedestals, splice boxes, fencing and shielding, surface location markers, meters, regular power supply units, fans, air conditioning units, cables and wiring, to which an antenna is attached in order to facilitate the provision of wireless telecommunication services.
- (2) "Antenna" means any system of wires, poles, rods, reflecting discs, or similar devices of various sizes, materials and shapes including but not limited to solid or wire-mesh dish, horn, spherical, or bar configured arrangements, used for the transmission or reception of electromagnetic signals.

- (3) "Antenna array" shall mean two or more antennas having active elements extending in one or more directions, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be part of the antenna.
- (4) "Approval authority" means the city official responsible for reviewing applications for small cell permits and vested with the authority to approve, conditionally approve or deny such applications.
- (5) "Base station" shall have the meaning as set forth in Title 47 Code of Federal Regulations (C.F.R.) Section 1.40001(b)(1), or any successor provision. This means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network (regardless of the technological configuration, and encompassing DAS and small cells). "Base station" does not encompass a tower or any equipment associated with a tower. Base station includes, without limitation:
- (a) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - (b) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small cells).
 - (c) Any structure other than a tower that, at the time the relevant application is filed with the city under this division, supports or houses equipment described in paragraphs 1. and 2. of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.
 - (d) "Base station" does not include any structure that, at the time the relevant application is filed under this division, does not support or house equipment described in paragraphs 1. and 2. of this definition. Other structures that do not host wireless telecommunications facilities are not "base stations."
- As an illustration and not a limitation, the FCC's definition of "base station" refers to any structure that actually supports wireless equipment even though it was not originally intended for that purpose. Examples include, but are not limited to, wireless facilities mounted on buildings, utility poles, light standards or traffic signals. A structure without wireless equipment replaced with a new structure designed to bear the additional weight from wireless equipment constitutes a base station.
- (5) "Cellular" means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.
- (6) "City" means the City of West Covina.
- (7) "Code" means the West Covina Municipal Code.

- (8) "Collocation" means the placement of antennas, dishes, or similar devices owned or used by two (2) or more telecommunication providers on one (1) antenna support structure, building, pole, or structure.
- (9) "Concealed" or "concealment" means camouflaging techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique.
- (10) "COW" means a "cell on wheels," which is a portable, self-contained wireless telecommunications facility that can be moved to a location and set up to provide wireless telecommunication services, which facility is temporarily rolled in, or temporarily installed, at a location. Under this division, the maximum time a facility can be installed to be considered a COW is five days. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.
- (11) "Decorative pole" means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.
- (12) "Distributed antenna system" or "DAS" means a network of spatially separated antennas (nodes) connected to a common source (a hub) via a transport medium (often fiber optics) that provide wireless telecommunications service within a specific geographic area or building. DAS includes the transport medium, the hub, and any other equipment to which the DAS network or its antennas or nodes are connected to provide wireless telecommunication services.
- (13) "Eligible facilities request" means any request for modification to an existing eligible support structure that does not substantially change the physical dimensions of such structure, involving:
- (a) Collocation of new transmission equipment;
 - (b) Removal of transmission equipment;
 - (c) Replacement of transmission equipment (replacement does not include completely replacing the underlying support structure); or
 - (d) Hardening through structural enhancement where such hardening is necessary to accomplish the eligible facilities request, but does not include replacement of the underlying support structure.

"Eligible facilities request" does not include modifications or replacements when an eligible support structure was constructed or deployed without proper local review, was not required to undergo local review, or involves equipment that was not properly approved. "Eligible facilities request" does include collocation facilities satisfying all the requirements for a non-discretionary collocation facility pursuant to Government Code Section 65850.6.

- (14) "Eligible support structure" means any support structure located in the PROW that is existing at the time the relevant application is filed with the city under this division.

- (15) "Existing" means a support structure, wireless telecommunications facility, or accessory equipment that has been reviewed and approved under the city's applicable zoning or permitting process, or under another applicable state or local regulatory review process, and lawfully constructed prior to the time the relevant application is filed under this division. However, a support structure, wireless telecommunications facility, or accessory equipment that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is "existing" for purposes of this division. "Existing" does not apply to any structure that (1) was illegally constructed without all proper local agency approvals, or (2) was constructed in noncompliance with such approvals. "Existing" does not apply where an existing support structure is proposed to be replaced in furtherance of the proposed wireless telecommunications facility.
- (16) "Facility(ies)" means wireless telecommunications facility(ies).
- (17) "FCC" means the Federal Communications Commission.
- (18) "FCC shot clock" means the presumptively reasonable time frame within which the city generally must act on a given wireless application, as defined by the FCC and as may be amended from time to time. The shot clock shall commence on "day zero," which is the day the WTFP application is submitted.
- (19) "Ground-mounted" means mounted to a pole, tower or other freestanding structure which is specifically constructed for the purpose of supporting an antenna or wireless telecommunications facility and placed directly on the ground at grade level.
- (20) "Lattice tower" means an open framework structure used to support one or more antennas, typically with three or four support legs.
- (21) "Located within (or in) the public right-of-way" includes any facility which in whole or in part, itself or as part of another structure, rests upon, in, over or under the PROW.
- (22) "Ministerial permit" means any city-issued non-discretionary permit required to commence or complete any construction or other activity subject to the city's jurisdiction. Ministerial permits may include, without limitation, a building permit, construction permit, electrical permit, encroachment permit, excavation permit and/or traffic control permit.
- (23) "Modification" means a change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, changes in size, shape, color, visual design, or exterior material. "Modification" does not include repair, replacement or maintenance if those actions do not involve whatsoever any expansion, alteration, enlargement, intensification, reduction, or augmentation of an existing wireless telecommunications facility.
- (24) "Monopole" means a structure composed of a pole or tower used to support antennas or related equipment. A monopole includes a monopine, monopalm and similar monopoles camouflaged to resemble faux trees or other faux objects attached on a monopole (e.g. water tower).

- (25) "Mounted" means attached or supported.
- (26) "OTARD antennas" means antennas covered by the "over-the-air reception devices" rule in 47 C.F.R. sections 1.4000 et seq. as may be amended or replaced from time to time.
- (27) "Permittee" means any person or entity granted a wireless telecommunication facilities permit (WTFP) pursuant to this division.
- (28) "Personal wireless services" shall have the same meaning as set forth in 47 United States Code Section 332(c)(7)(C)(i), as may be amended or superseded, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.
- (29) "Planning director" means the director of community development, or his or her designee.
- (30) "Pole" means a single shaft of wood, steel, concrete or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of this code.
- (31) "Public right-of-way" or "PROW" means a strip of land acquired by reservation, dedication, prescription, condemnation, or easement that allows for the passage of people and goods. The PROW includes, but is not necessarily limited to, streets, curbs, gutters, sidewalks, roadway medians, parkways, and parking strips. The PROW does not include land owned, controlled or operated by the city for uses unrelated to streets or the passage of people and goods, such as, without limitation, parks, city hall and community center lands, city yards, and lands supporting reservoirs, water towers, police or fire facilities and non-publicly accessible utilities.
- (32) "City Engineer" means the City Engineer, or his or her designee.
- (33) "Replacement" refers only to replacement of transmission equipment, wireless telecommunications facilities or eligible support structures where the replacement structure will be of like-for-like kind to resemble the appearance and dimensions of the structure or equipment replaced, including size, height, color, landscaping, materials and style.
 - (a) In the context of determining whether an application qualifies as an eligible facilities request, the term "replacement" relates only to the replacement of transmission equipment and does not include replacing the support structure on which the equipment is located.
 - (b) In the context of determining whether a SWF application qualifies as being placed upon a new eligible support structure or qualifies as a collocation, an application proposing the "replacement" of the underlying support structure qualifies as a new pole proposal.
- (34) "Radiofrequency emissions" (RF) means the electromagnetic signals transmitted and received using wireless telecommunication antennas.

- (35) "Section 6409" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended. The Middle Class Tax Relief and Job Creation Act of 2012 is also referenced herein occasionally as the "Spectrum Act".
- (36) "Small cell" means a low-powered antenna (node) that has a range of ten meters to two kilometers. The nodes of a "small cell" may or may not be connected by fiber. "Small," for purposes of "small cell," refers to the area covered, not the size of the facility. "Small cell" includes, but is not limited to, devices generally known as microcells, picocells and femtocells.
- (37) "Small cell network" means a network of small cells.
- (38) "Substantial change" has the same meaning as "substantial change" as defined by the FCC at 47 C.F.R. 1.40001(b)(7). Notwithstanding the definition above, if an existing pole-mounted cabinet is proposed to be replaced with an underground cabinet at a facility where there are no pre-existing ground cabinets associated with the structure, such modification may be deemed a non-substantial change, in the discretion of the planning director and based upon his/her reasonable consideration of the cabinet's proximity to residential view sheds, interference to public views and/or degradation of concealment elements. If undergrounding the cabinet is technologically infeasible such that it is materially inhibitive to the project, the planning director may allow for a ground mounted cabinet. A modification or collocation results in a "substantial change" to the physical dimensions of an eligible support structure if it does any of the following:
- (a) It increases the height of the structure by more than ten percent or more than ten feet, whichever is greater;
 - (b) It involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
 - (c) It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets. However, for towers and base stations located in the public rights-of-way, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
 - (d) It entails any excavation or deployment outside the current site. For purposes of this subsection, excavation outside the current site occurs where excavation more than 12 feet from the eligible support structure is proposed;
 - (e) It defeats the concealment or stealthing elements of the eligible support structure;
or
 - (f) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs 1. through 4. of this definition.

- (g) For all proposed collocations and modifications, a substantial change occurs when:
- (i) The proposed collocation or modification involves more than the standard number of new equipment cabinets for the technology involved, but not to exceed four equipment cabinets;
 - (ii) The proposed collocation or modification would defeat the concealment elements of the support structure; or
 - (iii) The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval that is inconsistent with the thresholds for a substantial change described in this section.

The thresholds and conditions for a "substantial change" described in this section are disjunctive such that the violation of any individual threshold or condition results in a substantial change. The height and width thresholds for a substantial change described in this section are cumulative for each individual support structure. The cumulative limit is measured from the physical dimensions of the original structure for base stations, and for all other facilities sites in the PROW from the smallest physical dimensions that existed on or after February 22, 2012, inclusive of originally approved-appurtenances and any modifications that were approved prior to that date.

(39) "Support structure" means a tower, pole, base station or other structure used to support a wireless telecommunications facility.

(40) "SWF" means a "small wireless facility" as defined by the FCC in 47 C.F.R. 1.6002(l) as may be amended, which are personal wireless services facilities that meet all the following conditions that, solely for convenience, have been set forth below:

- (a) The facility:
 - (i) Is mounted on an existing or proposed structure 50 feet or less in height, including antennas, as defined in Title 47 C.F.R. Section 1.1320(d); or
 - (ii) Is mounted on an existing or proposed structure no more than ten percent taller than other adjacent structures; or
 - (iii) Does not extend an existing structure on which it is located to a height of more than 50 feet or by more than ten percent, whichever is greater;
- (b) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;
- (c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- (d) The facility does not require antenna structure registration under 47 C.F.R. Part 17;

- (e) The facility is not located on Tribal lands, as defined under Title 36 C.F.R. Section 800.16(x); and
- (f) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in Title 47 C.F.R. Section 1.1307(b).
- (41) "Telecommunications tower" or "tower" bears the meaning ascribed to wireless towers by the FCC in 47 C.F.R. § 1.40001(b)(9), including without limitation a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.
- (42) "Transmission equipment" means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (43) "Utility pole" means any pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission. A telecommunications tower is not a utility pole.
- (44) "Wireless telecommunications facility" means a mechanical device, land, and/or structure that is used to transmit and/or receive electromagnetic signals, including but not limited to antennas, microwave dishes, horn, and other types of equipment for the transmission or receipt of such signals, free-standing wireless facilities, equipment buildings or cabinets, parking areas, and other accessory development. Exceptions: The term "wireless telecommunications facility" does not apply to the following:

 - (a) Government-owned and operated telecommunications facilities.
 - (b) Emergency medical care provider-owned and operated telecommunications facilities.
 - (c) Mobile services providing public information coverage of news events of a temporary nature.
 - (d) Any wireless telecommunications facilities exempted from this code by federal law or state law.
- (45) "Wireless telecommunications services" means the provision of services using a wireless telecommunications facility or a collocation facility, and shall include, but not be limited to, the following services: personal wireless services as defined in the Federal Telecommunications Act of 1996 at 47 U.S.C. § 332(c)(7)(C) or its successor statute,

cellular service, personal communication service, and/or data radio telecommunications.

(46) "WTFP" means a "wireless telecommunications facility permit" required by this division, which may be categorized as either a major WTFP or a minor WTFP.

Sec. 26-685.11300. - Wireless telecommunications facility permit (WTFP) review authority.

(1) Administration. The planning director is responsible for administering this division. As part of the administration of this division, the director may:

- (a) Interpret the provisions of this division;
- (b) Develop forms and procedures for submission of applications for placement or modification of wireless facilities, and proposed changes to any support structure consistent with this division;
- (c) Collect, as a condition of the completeness of any application, any fee established by this division;
- (d) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations;
- (e) Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued;
- (f) Require, as part of, and as a condition of completeness of any application, that an applicant for a wireless telecommunication facilities permit send notice to members of the public that may be affected by the placement or modification of the wireless facility and proposed changes to any support structure;
- (g) Subject to appeal as provided herein, determine whether to approve, approve subject to conditions, or deny an application; and
- (h) Take such other steps as may be required to timely act upon applications for placement of wireless telecommunications facilities, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(2) Administrative review ("Minor WTFP") required.

- (a) Certain wireless telecommunication facilities, collocations, modifications, or replacements to an eligible support structure is subject to the planning director's review of an Administrative Review application, if the following criteria are met:
 - (i) The proposal is determined to be for a SWF, or an eligible facilities request; and
 - (ii) The proposal complies with the adopted Design Guidelines for Wireless Telecommunication Facilities in the PROW; and

concerns (if applicable); coordination with other city departments/divisions responsible for application review; and application completeness issues.

- (ii) To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that city staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The approval authority shall use reasonable efforts to provide the applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the city for its reasonable costs to provide the services rendered in the pre-submittal conference.
 - (iii) Any request for a pre-submittal conference shall be in writing and shall confirm that any drafts to be provided to the city at the pre-submittal conference will not be deemed as "submissions" triggering the start of any FCC shot clock.
 - (b) All applications for WTFPs shall be initially submitted to the planning division. Each applicant shall fully and completely submit to the city a written application on a form prepared by the Planning division.
 - (c) Major WTFP applications must be submitted to the planning division at a scheduled application submission appointment. City staff will endeavor to provide applicants with an appointment within five business days after receipt of a written request therefor. A WTFP application will only be reviewed upon submission of a complete application therefor. A pre-submission appointment is not required for minor WTFPs.
 - (d) For SWF, applicants may submit up to five individual applications for a WTFP in a batch; provided, however, that SWF in a batch must be proposed with substantially the same equipment in the same configuration on the same support structure type. Each application in a batch must meet all the requirements for a complete application, which includes without limitation the application fee for each site in the batch. If any application in a batch is incomplete, the entire batch shall be deemed incomplete. If any application is withdrawn or deemed withdrawn from a batch as described in this division, the entire batch shall be deemed withdrawn. If any application in a batch fails to meet the required findings for approval, the entire batch shall be denied.
 - (e) If the wireless telecommunications facility will also require the installation of fiber, cable, or coaxial cable, such cable installations shall be included within the application form and processed in conjunction with the proposal for vertical support structure(s). Applicants shall simultaneously request fiber installation or other cable installation when seeking to install antennas in the PROW. Standalone applications for the installation of fiber, cable, or coaxial cable, or accessory equipment designed to serve an antenna must include all features of the wireless telecommunications facility proposed.
- (2) Application Contents—Minor WTFPs. The content of the application form for facilities subject to a minor WTFP shall be determined by the planning director in addition to all other information reasonably deemed necessary, but at a minimum shall include the following:
- (a) The name of the applicant, its telephone number, mailing address, electronic mail address, and contact information, and if the applicant is a wireless infrastructure provider, the

name and contact information for the wireless service provider that will be using the wireless facility.

- (b) The name of the owner of the structure, if different from the applicant, and a signed and notarized owner's authorization for use of the structure.
- (c) A complete description of the proposed wireless telecommunications facility and any and all work that will be required to install or modify it, including, but not limited to, details regarding proposed excavation, if any; detailed site plans showing the location of the wireless telecommunications facility, and dimensioned drawings with specifications for each element of the wireless facility, clearly describing the site and all structures and facilities at the site before and after installation or modification; and a dimensioned map identifying and describing the distance to the nearest residential dwelling unit and any historical structure within 250 feet of the facility. Before and after 360 degree photo simulations shall be provided.
- (d) Documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the municipal code and the FCC's radio frequency emissions standards.
- (f) A copy of the lease or other agreement, if any, between the applicant and the owner of the property to which the proposed facility will be attached.
- (g) If the application is for a SWF, the application shall state as such and shall explain why the proposed facility meets the definition of a SWF.
- (h) If the application is for an eligible facilities request, the application shall state as such and must contain information sufficient to show that the application qualifies as an eligible facilities request, which information must demonstrate that the eligible support structure was not constructed or deployed without proper local review, was not required to undergo local review, or involves equipment that was not properly approved. This shall include copies of all applicable local permits in-effect and as-built drawings of the current site. Before and after 360 degree photo simulations shall be provided, as well as documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the municipal code and the FCC's radio frequency emissions standards.
- (i) For SWFs, the application shall also contain:

 - (i) Application Fee. The applicant shall submit the applicable SWF WTFP application fee established by city council resolution. Batched applications for Major WTFP projects must include the applicable application fee for each SWF in the batch.
 - (ii) Construction Drawings. The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings shall: (i) contain cut sheets that contain the technical

specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number, and physical dimensions; (ii) identify all structures within 250 feet from the proposed project site and indicate such structures' overall height above ground level; (iii) depict the applicant's plan for electric and data backhaul utilities, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.

- (iii) Site Survey. For any SWF proposed to be located within the PROW, the applicant shall submit a survey prepared, signed, and stamped by a California licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures within 250 feet from the proposed project site, which includes without limitation all: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and below-grade utilities and related structures and encroachments; (iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters and other landscaping features.
- (iv) Photo Simulations. The applicant shall submit site photographs and 360 degree photo simulations that show the existing location and proposed SWF in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point.
- (v) Project Narrative and Justification. The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility qualifies as a SWF as defined by the FCC in 47 C.F.R. 1.6002(l). A complete written narrative analysis will state the applicable standard and all the facts that allow the city to conclude the standard has been met—bare conclusions not factually supported do not constitute a complete written analysis. As part of the written statement the applicant must also include (i) whether and why the proposed support is a structure as defined by the FCC in 47 C.F.R. § 1.6002(m); and (ii) whether and why the proposed wireless facility meets each required finding for a SWF permit as provided in Section 12.18.060 (Review Procedure).
- (vi) RF Compliance Report. The applicant shall submit an RF exposure compliance report that certifies that the proposed SWF, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the city. The RF report must include the actual frequency and power levels (in watts ERP) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas

with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

- (vii) Regulatory Authorization. The applicant shall submit evidence of the applicant's regulatory status under federal and California law to provide the services and construct the SWF proposed in the application.
- (viii) Site Agreement. For any SWF proposed to be installed on any structure owned or controlled by the city and located within the public rights-of-way, the applicant must enter into a site agreement prepared on a form prepared by the city and approved by the city attorney that states the terms and conditions for such non-exclusive use by the applicant. No changes shall be permitted to the city's form site agreement except as may be indicated on the form itself. Any unpermitted changes to the city's form site agreement shall be deemed a basis to deem the application incomplete.
- (ix) Acoustic Analysis. The applicant shall submit an acoustic analysis prepared and certified by an acoustic engineer for the proposed SWF and all associated equipment including all environmental control units, sump pumps, temporary backup power generators and permanent backup power generators demonstrating compliance with the following noise regulations:

 1. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 p.m. and 7:00 a.m.;
 2. At no time shall equipment noise from any facility exceed an exterior noise level of 55 dBA three feet from the source of the noise if the facility is located in the public right-of-way adjacent to a business, commercial, manufacturing, utility or school zone; provided, however, that for any such facility located within 500 feet of any property zoned residential or improved with a residential use, such equipment noise shall not exceed 45 dBA three feet from the sources of the noise.
 3. The acoustic analysis shall also include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of an acoustic analysis, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits.
- (x) Wind Load Analysis. The applicant shall submit a wind load analysis with an evaluation of high wind load capacity and shall include the impact of modification of an existing facility.
- (xi) Environmental Data. A completed environmental assessment application, or in the alternative any and all documentation identifying the proposed WTFP as exempt from environmental review (under the California Environmental Quality Act, Public

Resources Code 21000—21189, the National Environmental Policy Act, 42 U.S.C. §4321 et seq., or related environmental laws). Notwithstanding any determination of environmental exemption issued by another governmental entity, the city reserves its right to exercise its rights as a responsible agency to review de novo the environmental impacts of any WTFP application.

- (xii) Traffic Control Plan. A traffic control plan when the proposed installation is on any street in a non-residential zone. The city shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g. crane).
 - (xiii) Landscape Plan. A scaled conceptual landscape plan showing existing trees and vegetation and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the SWF and its accessory equipment.
 - (xiv) CPCN. Certification that applicant is a telephone corporation or a statement providing the basis for its claimed right to enter the PROW. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.
 - (xvi) Master Deployment Plan. A master deployment plan showing the locations of existing and proposed small wireless facilities over the next two years.
 - (j) If the applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the application must provide all information on which the applicant relies on in support of that claim. Applicants are not permitted to supplement this showing if doing so would prevent the city from complying with any deadline for action on an application or FCC shot clock.
- (3) Application Contents—Major WTFPs. The application form for a major WTFP shall require the following information, in addition to all other information determined necessary by the planning director:
- (a) The name, address, and telephone number of the applicant, owner, and the operator of the proposed wireless telecommunication facility.
 - (b) If the applicant does not, or will not, own the support structure, the applicant shall provide a duly-executed letter of authorization from the owner of the structure. If the owner of the support structure is the applicant, but such owner/applicant will not directly provide wireless telecommunications services, the owner/applicant shall provide a duly-executed letter of authorization from the person(s) or entity(ies) that will provide those services.
 - (c) A full written description of the proposed wireless telecommunications facility and its purpose.
 - (d) Detailed engineering plans of the proposed wireless telecommunications facility and related report prepared by a professional engineer registered in the state documenting the following:
 - (i) Height/elevation, diameter, layout and design of the facility, including technical engineering specifications, economic and other pertinent factors governing selection

- of the proposed design, together with evidence that demonstrates that the proposed facility has been designed to be the least intrusive equipment within the particular technology available to the carrier for deployment.
- (ii) A photograph and model name and number of each piece of the facility or proposed antenna array and accessory equipment included.
 - (iii) Power output and operating frequency for the proposed antenna array (including any antennas existing as of the date of the application serving the carrier identified in the application).
 - (iv) Total anticipated capacity of the wireless telecommunications facility for the subject carrier, indicating the number and types of antennas and power and frequency ranges, which can be accommodated.
 - (v) Sufficient evidence of the structural integrity of the support structure as required by the city.
- (e) A written description identifying the geographic service area to be served by the proposed WTFP, plus geographic or propagation maps showing applicant's service area objectives.
- (f) A justification study which includes the rationale for selecting the proposed wireless telecommunication facility design, support structure and location. A detailed explanation of the applicant's coverage objectives that the proposal would serve, and how the proposed use is the least intrusive means for the applicant to cover such objectives. This shall include:
- (i) A meaningful comparative analysis that includes all factual reasons why the proposed location and design deviates from, or is the least compliant means of, or not the least intrusive location and design necessary to reasonably achieve the applicant's reasonable objectives of covering an established significant gap (as established under state and federal law).
 - (ii) The study shall include all eligible support structures and/or alternative sites evaluated for the proposed major WTFP, and why the alternatives are not reasonably available, technically feasible options that most closely conform to the local values. The alternative site analysis must include the consideration of at least two eligible support structures; or, if no eligible support facilities are analyzed as alternatives, why no eligible support facilities are reasonably available or technically feasible.
 - (iii) If a portion of the proposed facility lies within a jurisdiction other than the city's jurisdiction, the applicant must demonstrate that alternative options for locating the project fully within one jurisdiction or the other is not a viable option. Applicant must demonstrate that it has obtained all approvals from the adjacent jurisdiction for the installation of the extra-jurisdictional portion of the project.
- (g) Site plan(s) to scale, specifying and depicting the exact location of the proposed wireless telecommunications facility, location of accessory equipment in relation to the support structure, access or utility easements, existing utilities, adjacent land uses, and showing compliance with all design and safety requirements set forth in this division.

- (h) A completed environmental assessment application, or in the alternative any and all documentation identifying the proposed WTFP as exempt from environmental review (under the California Environmental Quality Act, Public Resources Code 21000-21189, the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., or related environmental laws). Notwithstanding any determination of environmental exemption issued by another governmental entity, the city reserves its right to exercise its rights as a responsible agency to review de novo the environmental impacts of any WTFP application.
- (i) An accurate visual impact analysis showing the maximum silhouette, view-shed analysis, color and finish palette and proposed screening for the wireless telecommunications facility, including scaled photo simulations from at least three different angles.
- (j) Completion of the RF emissions exposure guidelines checklist contained in Appendix A to the FCC's "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to determine whether the facility will be "categorically excluded" as that term is used by the FCC.
- (k) For a facility that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the city that certifies that the proposed facility, as well as any facilities that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts effective radio power "ERP") for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
- (l) Copies of any documents that the applicant is required to file pursuant to Federal Aviation Administration regulations for the proposed wireless telecommunications facility.
- (m) A noise study prepared by a qualified acoustic engineer documenting that the level of noise to be emitted by the proposed wireless telecommunications facility will comply with this code, including Chapter 15, Article IV (Noise Regulations) of this code.
- (n) A traffic control plan. The city shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g., crane).
- (o) A scaled conceptual landscape plan showing existing trees and vegetation and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the wireless telecommunication facility.
- (p) Certification that applicant is a telephone corporation, or a statement providing the basis for its claimed right to enter the right-of-way. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.

- (q) Evidence that the proposed wireless facility qualifies as a personal wireless services facility.
- (r) Address labels for use by the city in noticing all property owners and occupants of properties within 300 feet of the proposed wireless telecommunication facility and, if applicable, all public hearing information required by the municipal code for public noticing requirements.
- (s) Any other information and/or studies reasonably determined to be necessary by the planning director(s) may be required.
- (4) Application Fees and Deposits. For all WTFPs, application fee(s) and the establishment of deposits to cover outside consultant costs shall be required to be submitted with any application, as established by city council resolution and in accordance with California Government Code Section 50030.

 - (a) Reasonable costs of city staff, consultant and attorney time (including that of the city attorney) pertaining to the review, processing, noticing and hearing procedures directly attributable to a WTFP shall be reimbursable to the city. To this end, the planning director, as applicable, may require applicants to enter a deposit reimbursement agreement, in a form approved by the city attorney, or other established deposit accounting mechanism for purposes of obtaining an applicant deposit from which the direct costs of city processing of an application may be drawn-down.
- (5) Effect of State or Federal Law on Application Process. In the event a state or federal law prohibits the collection of any information or application conditions required by this section, the planning director is authorized to omit, modify, or add to that request from the city's application form in consultation with the city attorney. Requests for waivers from any application requirement of this section shall be made in writing to the planning director. The planning director may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of a waiver, the city will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the WTFP sought. All waivers approved pursuant to this subsection shall be (1) granted only on a case-by-case basis, and (2) narrowly-tailored to minimize deviation from the requirements of the municipal code.
- (6) Applications Deemed Withdrawn. To promote efficient review and timely decisions, any application governed by this division will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the city on any application within 30 calendar days after the application is deemed incomplete in a written notice to the applicant. The planning director (as applicable) may grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the application deemed automatically withdrawn that shows good cause to grant the extension.
- (7) Waiver of Applications Superseded by Submission of New Project. If an applicant submits a WTFP application, but substantially revises the proposed facility during the application process prior to any city hearing or decision on such application, the substantially revised application shall be deemed a new application for all processing purposes, including FCC shot clocks, and the prior submittals deemed waived and superseded by the substantially revised application. For purposes of this subparagraph, "substantially revised" means that the project as initially-proposed has been alternately proposed for a location 300 feet or more from the

original proposal or constitutes a substantial change in the dimensions or equipment that was proposed in the original WTFP application.

- (8) Rejection for Incompleteness. WTFPs will be processed, and notices of incompleteness provided, in conformity with state, local, and federal law. If such an application is incomplete, it may be rejected by the planning director by notifying the applicant in writing and specifying the material omitted from the application.

Sec. 26-685.11500. - Review procedure.

- (1) General. Wireless telecommunications facilities shall be installed and modified in a manner that minimizes risk to public safety and utilizes installation of new support structures or equipment cabinets in the PROW only after all existing and replacement structure options have been exhausted, and where feasible, places equipment underground, and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located; ensures that installations are subject to periodic review to minimize the intrusion on the PROW; and ensures that the city bears no risk or liability as a result of the installations, and that such use does not inconvenience the public, interfere with the primary uses of the PROW, or hinder the ability of the city or other government agencies to improve, modify, relocate, abandon, or vacate the PROW or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the PROW.
- (2) Collocation Encouraged. Where the facility site is capable of accommodating a collocated facility upon the same site in a manner consistent with the permit conditions for the existing facility, the owner and operator of the existing facility shall allow collocation of third-party facilities, provided the parties can mutually agree upon reasonable terms and conditions therefor.
- (3) Findings Required for Approval of a WTFP.
- (a) Minor WTFP for SWF. For minor WTFP applications proposing a SWF, the planning director or planning commission shall approve such application if, on the basis of the application and other materials or evidence provided in review thereof, all of the following findings can be made:
- (i) The facility qualifies as a SWF;
 - (ii) The facility is not detrimental to the public health, safety, and welfare;
 - (iii) The SWF meets applicable requirements and standards of state and federal law;
 - (vi) The facility meets applicable requirements under this division and complies with the adopted Design Guidelines.
- (b) Minor WTFP for EFR. For minor WTFP applications proposing an eligible facilities request, the planning director shall approve such application if, on the basis of the application and other materials or evidence provided in review thereof, all of the following findings can be made:
- (i) That the application qualifies as an eligible facilities request; and
 - (ii) That the proposed facility will comply with all generally-applicable laws.

- (c) Major WTFP. No major WTFP shall be granted unless all of the following findings are made by the applicable decision-maker:

 - (i) The proposed wireless telecommunications facility has been designed and located in compliance with all applicable provisions of this division;
 - (ii) If applicable, the applicant has demonstrated its inability to locate on an eligible support structure;
 - (iii) The applicant has provided sufficient evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise agreement with the city permitting them to use the public right-of-way;
 - (iv) If applicable, the applicant has provided sufficient evidence supporting the applicant's claim that compliance with the adopted Design Guidelines would be technically infeasible;
 - (v) The applicant has demonstrated the proposed installation is designed such that the proposed installation represents the least intrusive means possible, supported by factual evidence and a meaningful comparative analysis to show that all alternative locations and designs identified in the application review process were technically infeasible or not reasonably available.
- (4) Noticing. The provisions in this section describe the procedures for the approval process, any required notice and public hearings for a WTFP application.

 - (a) Major WTFP Applications. Any major WTFP application shall require notice and a public hearing. The public hearing notices shall be provided as set forth in Section 26-206 of the West Covina Municipal Code.
- (5) Notice of Decision. Within five days after any decision to grant, approve, deny, or conditionally grant any WTFP application, the planning director, as applicable, shall provide written notice based on substantial evidence in the written administrative record including the following:

 - (a) A general explanation of the decision, including the findings required for the decision, if any, and how those findings were supported or not supported by substantial evidence;
 - (b) A general description of the property involved;
 - (c) Information about applicable rights to appeal the decision, costs to appeal, and explanation of how that right may be exercised; and
 - (d) To be given by first class mail to the project applicant and property owner;
 - (e) Once a WTFP is approved, no changes shall be made to the approved plans without review and approval in accordance with this division.
 - (f) Because Section 332(c)(7) of the Telecommunications Act preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, no decision upon a WTFP shall be premised upon the environmental or health

effects of RF emissions, nor shall public comments be considered to the extent they are premised upon the environmental or health effects of RF emissions.

(6) Appeals.

- (a) An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless facility. Because Section 332(c)(7) of the Telecommunications Act preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, appeals of WTFP decision premised on the environmental effects of radio frequency emissions will not be considered.
- (b) WTFP Appeals. Any person claiming to be adversely affected by a decision of a major WTFP pursuant to this division may appeal such decision as provided in accordance with the appeal provisions in Section 26-212 of the West Covina Municipal Code.

Sec. 26-685.11600 - Design and development standards.

(1) Wireless Telecommunication Facility Design and Development Standards. Wireless telecommunication facilities in the PROW are subject to the design and development standards and conditions of approval set forth herein. All wireless telecommunication facilities shall be designed and maintained as to minimize visual, noise and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the following standards:

- (a) Concealment. All Wireless telecommunication facilities shall employ concealment, screening, undergrounding, and camouflage methods and techniques in order to ensure that the facility is visually screened and blends into the environment to prevent the facility from dominating the surrounding area, as well as to be compatible with the architectural character of the surrounding buildings or structures per the adopted Design Guidelines.
- (b) Location.
 - (i) Wireless telecommunication facilities shall not be located within the center median of any street.
 - (ii) SWFs shall not be located within 15 feet from any structure used for residential purposes in the PCD-1 zone.
 - (iii) SWFs shall not be located within 30 feet from any structure used for residential purposes in all other land-use zones outside of the PCD-1 zone.
 - (vi) SWFs may not encroach onto or over any private or other property outside the PROW unless on a recorded utility easement.
 - (v) Wireless telecommunication facilities shall not be located within the drip-line of any tree located on private property as set forth in Section 26-294 (Protection of trees during development activity) of this code.
 - (vi) All wireless telecommunications facilities subject to a major WTFP shall not be located in the PROW adjacent to properties used for residential purposes.

- (vii) All wireless telecommunications facilities subject to a major WTFP shall not be located in the PROW within 100 feet of designated historic buildings.
- (c) Noise. All wireless telecommunication facilities and accessory equipment shall comply with all applicable noise control standards and regulations stated in this division, including the following:

 - (i) Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 p.m. and 7:00 a.m.;
 - (ii) At no time shall equipment noise from any facility exceed an exterior noise level of 55 dBA three feet from the source of the noise if the facility is located in the public right-of-way adjacent to a business, commercial, manufacturing, utility or school zone; provided, however, that for any such facility located within 500 feet of any property zoned residential or improved with a residential use, such equipment noise shall not exceed 45 dBA three feet from the sources of the noise.
- (d) Landscaping. Wireless telecommunication facilities shall not displace any existing landscape features in the PROW unless: (1) such displaced landscaping is replaced with plants, trees or other landscape features approved by the public services director or his or her designee and (2) the applicant submits and adheres to a landscape maintenance plan. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location. Landscape maintenance shall be performed in accordance to the public services director, or his or her designee. To preserve existing landscaping in the PROW, all work performed in connection with wireless telecommunication facilities shall not cause any street trees to be trimmed, damaged or displaced. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant and maintain replacement trees at the site for the duration of the permit term.
- (e) No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the city.
- (f) Accessory Equipment. Not including the electric meter, all accessory equipment shall be located underground unless city staff determines that there is no room in the PROW for undergrounding or that undergrounding is not feasible. Such accessory equipment shall be enclosed with a structure and shall be fully screened and camouflaged, including the use of landscaping, architectural treatment or other acceptable alternate screening method. Required electrical meters or cabinets shall be screened and/or camouflaged per the adopted Design Guidelines.
- (g) Support Structures. Only pole-mounted antennas shall be permitted in the PROW. Mounting to all other forms of support structure in the PROW are prohibited.

 - (i) Utility Poles. Wireless telecommunication facilities proposed to be installed on an existing utility pole must install all antennas above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the written record. The maximum height of any antenna or equipment above the pole shall not exceed five

- (5) feet. Antennas must be concealed within a shroud. All cables, wires and other connectors must be concealed within the side-arm mount or extension arm of a wood pole and within the inside of any other pole. The maximum horizontal separation between the antenna and the pole shall be the minimum separation required by applicable health and safety regulations.
- (ii) Streetlight Poles. The maximum height of any antenna and equipment shall not exceed five (5) feet above the existing height of other streetlight pole(s) installed along the same street.
- (iii) Replacement Poles. If an applicant proposes to replace a pole that is an eligible support structure to accommodate the proposed facility, the replacement pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible.
- (iv) New, Non-Replacement Poles. Wireless telecommunication facilities on a new, non-replacement pole must install a new streetlight pole substantially similar to the city's and/or electric utility provider's standards and specifications but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter shall not exceed 12 inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome, and shall comply with the following:
1. The new pole must function for a purpose other than placement of a wireless facility (e.g., street light, street sign poles, etc.).
 2. The design must match the dimensions and design of existing and similar types of poles and antennas in the surrounding areas.
- (h) Obstructions; Public Safety. SWF and any associated equipment or improvements shall not physically interfere with or impede access to any:
- (i) Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, incommode the public's use of the right-of-way, or cause safety hazards to pedestrians and motorists.
 - (ii) A facility shall not be located within any portion of the public right of-way interfering with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility.
 - (iii) Doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way;
- (2) Eligible Facilities Request Design and Development Standards. Approved eligible facilities requests for which the findings set forth in Section 26-685.11500 have been made are subject to the following, unless modified by the approving authority:

- (a) WTFP Subject to Conditions of Underlying Permit. Any WTFP granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit and all such conditions that were applicable to the facility prior to approval of the subject eligible facility request.
 - (b) No Permit Term Extension. The city granting, or granting by operation of law, of an eligible facilities request permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the city's granting, or granting by operation of law, of an eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall have the same term as the underlying permit or other regulatory approval for the subject tower or base station.
 - (c) No Waiver of Standing. The city's granting, or granting by operation of law, of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the city to challenge Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.
- (3) Conditions of Approval. All wireless telecommunication facilities shall be subject to conditions of approval as reasonably imposed by the planning director or the approving city body, as applicable, as well as any modification of the conditions of approval deemed necessary by the planning director or approving city body.

Sec. 26-685.11700 Operation and maintenance standards.

All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards:

- (1) The permittee shall at all times maintain compliance with all applicable federal, state, and local laws, regulations and other rules, including, without limitation, those applying to use of the PROW. The permittee shall ensure that all equipment and other improvements to be constructed and/or installed in connection with the approved WTFP are maintained in a manner that is not detrimental or injurious to the public health, safety, and general welfare and that the aesthetic appearance is continuously preserved, and substantially the same as shown in the approved plans at all times relevant to the WTFP.
- (2) Unless otherwise provided herein, all necessary repairs and restoration shall be completed by the permittee, owner, operator or any designated maintenance agent at its sole cost within 48 hours:
 - (a) After discovery of the need by the permittee, owner, operator, or any designated maintenance agent; or
 - (b) After permittee, owner, operator, or any designated maintenance agent receives notification from the city.
- (3) Insurance. The permittee shall obtain and maintain throughout the term of the permit a type and amount of insurance as specified by city's risk management. The relevant policy(ies) shall

name the city, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insured. The permittee shall use its best efforts to provide 30 days prior notice to the city engineer of the cancellation or material modification of any applicable insurance policy.

- (4) Indemnities. The permittee and, if applicable, the owner of the property upon which the wireless facility is installed shall defend, indemnify and hold harmless the city, its agents, officers, officials, and employees (a) from any and all damages, liabilities, injuries, losses, costs, and expenses, and from any and all claims, demands, law suits, writs of mandamus, and other actions or proceedings brought against the city or its agents, officers, officials, or employees to challenge, attack, seek to modify, set aside, void or annul the city's approval of the permit, and (b) from any and all damages, liabilities, injuries, losses, costs, and expenses, and any and all claims, demands, law suits, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the permittee or, if applicable, the private property owner or any of each one's agents, employees, licensees, contractors, subcontractors, or independent contractors. In the event the city becomes aware of any such actions or claims the city shall promptly notify the permittee and, if applicable, the private property owner and shall reasonably cooperate in the defense. The city shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the city's defense, and the property owner and/or permittee (as applicable) shall reimburse the city for any costs and expenses directly and necessarily incurred by the city in the course.
- (5) Performance Bond. Prior to issuance of a wireless encroachment permit, the permittee shall file with the city, and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to 100 percent of the cost of removal of the facility as specified in the application for the WTFP or as that amount may be modified by the city engineer in the permit based on the characteristics of the installation. The permittee shall reimburse the city for staff time associated with the processing and tracking of the bond, based on the hourly rate adopted by the city council. Reimbursement shall be paid when the security is posted and during each administrative review.
- (6) Adverse Impacts on Adjacent Properties. Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, and removal of the facility. All facilities, including each piece of equipment, shall be located and placed in a manner so as to not interfere with the use of the PROW, impede the flow of vehicular or pedestrian traffic, impair the primary use and purpose of poles/signs/traffic signals or other infrastructure, interfere with outdoor dining areas or emergency facilities, or otherwise obstruct the accessibility of the PROW.
- (7) Contact Information. Each permittee of a wireless telecommunications facility shall provide the city engineer with the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator and the agent responsible for the maintenance of the

- facility ("contact information"). Contact information shall be updated within seven days of any change.
- (8) All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:
- (a) Subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to city streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems (water, sewer, storm drains, gas, oil, electrical, etc.) that result from any activities performed in connection with the installation and/or maintenance of a wireless facility in the PROW;
 - (b) General dirt and grease;
 - (c) Chipped, faded, peeling, and cracked paint;
 - (d) Rust and corrosion;
 - (e) Cracks, dents, and discoloration;
 - (f) Missing, discolored or damaged artificial foliage or other camouflage;
 - (g) Graffiti, bills, stickers, advertisements, litter and debris. All graffiti on facilities must be removed at the sole expense of the permittee within 48 hours after notification from the city;
 - (h) Broken and misshapen structural parts; and
 - (i) Any damage from any cause.
- (9) All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in neat, safe and good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the planning director and public services director.
- (10) The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.
- (11) Each facility shall be operated and maintained to comply with all conditions of approval. The permittee, when directed by the city, must perform an inspection of the facility and submit a report to the planning director and city engineer on the condition of the facility to include any identified concerns and corrective action taken. Additionally, as the city performs maintenance on city-owned infrastructure, additional maintenance concerns may be identified. These will be reported to the permittee. The city shall give the permittee 30 days to correct the identified maintenance concerns after which the city reserves the right to take any action it deems necessary, which could include revocation of the permit. The burden is on the permittee to demonstrate that it complies with the requirements herein. Prior to issuance of a permit under this division, the owner of the facility shall sign an affidavit

attesting to understanding the city's requirement for performance of annual inspections and reporting.

(12) All facilities permitted pursuant to this division shall comply with the Americans with Disabilities Act.

(13) The permittee shall be responsible for obtaining power to the facility and for the cost of electrical usage.

(14) Interference.

(a) The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement, or property without the prior consent of the owner of that structure, improvement, or property. No structure, improvement, or property owned by the city shall be moved to accommodate a permitted activity or encroachment, unless the city determines that such movement will not adversely affect the city or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the city's structure, improvement, or property. Prior to commencement of any work pursuant to a wireless encroachment permit, the permittee shall provide the city with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement, or property within the PROW or city utility easement to be affected by permittee's facilities.

(b) The facility shall not damage or interfere in any way with city property, the city's operations or the operations of prior-existing, third party installations. The city will reasonably cooperate with the permittee and/or carrier to carry out such activities as are necessary to correct the interference.

(i) Signal Interference. The permittee shall correct any such interference within 24 hours of written notification of the interference. Upon the expiration of the 24-hour cure period and until the cause of the interference is eliminated, the permittee shall cease operation of any facility causing such interference until such interference is cured.

(ii) Physical Interference. The city shall give the permittee 30 days to correct the interference after which the city reserves the right to take any action it deems necessary, which could include revocation of the permit.

(c) The city at all times reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter, or improve the sites. Such actions may temporarily interfere with the operation of the facility. The city will in all cases, other than emergencies, give the applicant 30 days written notification of such planned, non-emergency actions.

(14) RF Exposure Compliance. All facilities shall comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards. After transmitter and antenna system optimization, but prior to unattended operations of the facility, the permittee or its representative must conduct on-site post-installation RF emissions testing to demonstrate actual compliance with the FCC Office of Engineering and Technology Bulletin 65 RF Emissions Safety Rules for General Population/Uncontrolled RF Exposure in All Sectors. For this testing, the transmitter shall be

operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit.

(a) Testing of any equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m. Testing is prohibited on holidays and weekends.

(15) Records. The permittee shall maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition or fails to produce true and complete copies of such records within a reasonable time after a written request from the city, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.

(16) Attorney's Fees. In the event the city determines that it is necessary to take legal action to enforce any of these conditions, or to revoke a permit, and such legal action is taken, the permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the city, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the city should otherwise agree with permittee to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails in the enforcement proceeding.

Sec. 26-685.11800 No dangerous condition or obstructions allowed.

No person shall install, use or maintain any wireless telecommunications facility that in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

Sec. 26-685.11900 Nonexclusive grant; no possessory interests.

(1) No permit or approval granted under this division shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the city for any purpose whatsoever. Further, no approval shall be construed as a warranty of title.

(2) No possessory interest is created by a WTFP. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, the permittee acknowledges that the city has given to the applicant notice pursuant to California Revenue and Taxation Code Section 107.6 that the use or occupancy of any public property pursuant to a WTFP may create a possessory interest which may be subject to the payment of property taxes levied upon such interest. Wireless telecommunications facility operators shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interest

taxes or other taxes, fees, and assessments levied against their right to possession, occupancy, or use of any public property pursuant to any right of possession, occupancy, or use created by the WTFP.

- (3) The permission granted by a WTFP shall not in any event constitute an easement on or an encumbrance against the PROW. No right, title, or interest (including franchise interest) in the PROW, or any part thereof, shall vest or accrue in permittee by reason of a wireless encroachment permit or the issuance of any other permit or exercise of any privilege given thereby.

Sec. 26-685.12000 Permit expiration; abandonment of applications.

- (1) Permit Term. Unless Government Code Section 65964, as may be amended, authorizes the city to issue a permit with a shorter term, a permit for any wireless telecommunications facility shall be valid for a period of ten (10) years, unless pursuant to another provision of this code it lapses sooner or is revoked. At the end of ten (10) years from the date of issuance, such permit shall automatically expire.
- (2) A permittee may apply for a new permit within 180 days prior to expiration. Said application and proposal shall comply with the city's current code requirements for wireless telecommunications facilities.
- (3) Timing of Installation. The installation and construction authorized by a WTFP shall begin within one year after its approval, or it will expire without further action by the city. The installation and construction authorized by a WTFP shall conclude, including any necessary post-installation repairs and/or restoration to the PROW, within 30 days following the day construction commenced.
- (4) Commencement of Operations. The operation of the approved facility shall commence no later than 90 days after the completion of installation, or the WTFP will expire without further action by the city. The permittee shall provide the planning director and city engineer notice that operations have commenced by the same date.

Sec. 26-685.12100 Cessation of use or abandonment.

- (1) A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days unless the permittee has obtained prior written approval from the director which shall not be unreasonably denied. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.
- (2) The operator of a facility shall notify the planning director and city engineer in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within ten days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the planning director and city engineer of any discontinuation of operations of 30 days or more.
- (3) Failure to inform the planning director and city engineer of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:

- (a) Litigation;
- (b) Revocation or modification of the permit;
- (c) Acting on any bond or other assurance required by this article or conditions of approval of the permit;
- (d) Removal of the facilities by the city in accordance with the procedures established under this code for abatement of a public nuisance at the owner's expense; and/or
- (e) Any other remedies permitted under this code or by law.

Sec. 26-685.12200 Removal and restoration—Permit expiration, revocation or abandonment.

- (1) Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the WTFP or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to the condition it was in prior to the granting of the WTFP, except for retaining the landscaping improvements and any other improvements at the discretion of the city. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the city. Expired, terminated or revoked wireless telecommunications facility equipment shall be removed from the site at no cost or expense to the city.
- (2) Failure of the permittee, owner or operator to promptly remove its facility and restore the property within ninety (90) days after expiration, earlier termination or revocation of the WTFP, or abandonment of the facility, shall be a violation of this code. Upon a showing of good cause, an extension may be granted by the city engineer where circumstances are beyond the control of the permittee after expiration. Further failure to abide by the timeline provided in this section shall be grounds for:
 - (a) Prosecution;
 - (b) Acting on any security instrument required by this division or conditions of approval of permit;
 - (c) Removal of the facilities by the city in accordance with the procedures established under this code for abatement of a public nuisance at the owner's expense; and/or
 - (d) Any other remedies permitted under this code or by law.
- (3) Summary Removal. In the event any city director or city engineer determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes an immediate dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), such director or city engineer may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility shall be treated as abandoned property.

(4) Removal of Facilities by City. In the event the city removes a wireless telecommunications facility in accordance with nuisance abatement procedures stated in Chapter 15, Article IX (Administrative Nuisance Abatement) of this code or pursuant to the summary removal procedures of subsection (3), above, any such removal shall be without any liability to the city for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the city may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with this code. Unless otherwise provided herein, the city has no obligation to store such facility. Neither the permittee, owner nor operator shall have any claim if the city destroys any such facility not timely removed by the permittee, owner or operator after notice, or removal by the city due to exigent circumstances.

Sec. 26-685.12300 Effect on other ordinances.

Compliance with the provisions of this division shall not relieve a person from complying with any other applicable provision of this code. In the event of a conflict between any provision of this division and other sections of this code, this division shall control.

Sec. 26-685.12400 State or federal law.

The implementation of this chapter and decisions on applications for placement of wireless telecommunications facilities in the PROW shall, at a minimum, ensure that the requirements of this division are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this division may be waived, but only to the minimum extent required to avoid the prohibition or violation.

Sec. 26-685.12500 Legal nonconforming wireless telecommunications facilities in the right-of-way.

- (1) Legal nonconforming wireless telecommunications facilities are those facilities that existed but did not conform to this division on the date this division became effective.
- (2) Legal nonconforming wireless telecommunications facilities shall, within ten (10) years from the date this division became effective, be brought into conformity with all requirements of this article; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change in a conditional use, the owner shall comply with all applicable provisions of this code at such time, to the extent the city can require such compliance under federal and state law.
- (3) An aggrieved person may file an appeal to the city council of any decision the planning director, city engineer, or other deciding body made pursuant to this section. In the event of an appeal alleging that the ten-year amortization period is not reasonable as applied to a particular property, the city council may consider the amount of investment or original cost, present actual or depreciated value, dates of construction, amortization for tax purposes, salvage value, remaining useful life, the length and remaining term of the lease under which it is maintained (if any), and the harm to the public if the structure remains standing beyond

the prescribed amortization period, and set an amortization period accordingly for the specific property.

SECTION NO. 6: That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published as required by law.

SECTION NO. 7: This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage.

PASSED, APPROVED AND ADOPTED this 5th day of May 2020.

Tony Wu
Mayor

APPROVED AS TO FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, Assistant City Clerk, of the City of West Covina, custodian of the original records, which are public records which I maintain custody and control for the City of West Covina do hereby certify the foregoing Ordinance, being Ordinance No. 2470 as passed by the City Council of the City of West Covina, signed by the Mayor of said Council, and attested by the Assistant City Clerk, at a regular meeting of the City Council held on the 5th day of May 2020, and that the same was passed by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINED:

Lisa Sherrick
Assistant City Clerk

**PLANNING COMMISSION
RESOLUTION NO. 20-6018**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
WEST COVINA, CALIFORNIA, RECOMMENDING TO THE CITY
COUNCIL APPROVAL OF CODE AMENDMENT NO. 16-03, CODE
AMENDMENT RELATED TO WIRELESS TELECOMMUNICATION
FACILITIES IN THE PUBLIC RIGHT OF WAY**

CODE AMENDMENT NO. 16-03

GENERAL EXEMPTION

APPLICANT: City of West Covina

LOCATION: Citywide

WHEREAS, on the 16th day of February 2016, the City Council initiated a code amendment related to wireless telecommunication facilities in the public right-of-way; and

WHEREAS, the Planning Commission, did on May 14, 2019 and July 23, 2019, conduct study sessions to consider the initiated code amendment; and

WHEREAS, the Planning Commission, upon giving the required notice, did on the 26th day of November 2019, conduct a duly advertised public hearing as prescribed by law, and continued the hearing to a date certain of January 28, 2020; and

WHEREAS, the Planning Commission, did on the 28th day of January 2020, conduct a duly advertised public hearing as prescribed by law, and

WHEREAS, studies and investigations made by this Commission and on its behalf reveal the following facts:

1. The City's provisions for wireless telecommunication facilities were last updated in 2011.
2. The Municipal Code currently does not have explicit regulations pertaining specifically to wireless telecommunication facilities in the public right-of-way.
3. On September 27, 2018, the Federal Communications Commission (FCC) released a Declaratory Ruling and Third Report and Order (FCC Order) significantly limiting local management of Small Wireless Facilities (SWF).

4. On April 4, 2019, the California Supreme Court decided T-Mobile West, LLC vs. City and County of San Francisco, validating that municipalities can regulate the aesthetics of wireless facilities in the right of way.
5. It is necessary to amend the municipal code to create transparent procedures and standards regulating wireless telecommunication facilities in the public right-of-way in order to (a) preserve the public right-of-way ("PROW") in the city for the maximum benefit and use of the public, (b) to promote and protect public health and safety, community welfare, and the aesthetic quality of the city consistent with the goals, objectives and policies of the general plan, and (c) to provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules and regulations
6. The proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the proposed action consists of a code amendment, which does not have the potential for causing a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of West Covina as follows:

SECTION NO. 1: The above recitals are true and correct and are incorporated herein as if set forth herein in full.

SECTION NO. 2: Based on the evidence presented and the findings set forth, Code Amendment No. 16-03 is hereby found to be consistent with the West Covina General Plan and the implementation thereof, and that the public necessity, convenience, general welfare, and good zoning practices require Code Amendment No. 16-03.

SECTION NO. 3: Based on the evidence presented and the findings set forth, the Planning Commission of the City of West Covina hereby recommends to the City Council of the City of West Covina that it approves Code Amendment No. 16-03 to amend Chapter 26 (Zoning) of the West Covina Municipal Code as shown on Exhibit "A."

SECTION NO. 4: The Secretary is instructed to forward a copy of this Resolution to the City Council for their attention in the manner as prescribed by law and this Resolution shall go into force and effect upon its adoption.

[continued on next page]

I HEREBY CERTIFY, that the foregoing Resolution was adopted by the Planning Commission of the City of West Covina, at a regular meeting held on the 28th day of January, 2020, by the following vote.

AYES: Holtz, Redholtz, Kennedy, Jaquez,

NOES: Heng

ABSTAIN: None

ABSENT: None

DATE: January 28, 2020

Herb Redholtz, Chairman
Planning Commission

Jeff Anderson, Secretary
Planning Commission

EXHIBIT A

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING CODE AMENDMENT NO. 16-03, RELATED TO WIRELESS TELECOMMUNICATION FACILITIES IN THE PUBLIC RIGHT OF WAY

WHEREAS, the City's provisions for wireless telecommunication facilities were last updated in 2011.; and

WHEREAS, the City's Municipal Code currently does not have explicit regulations pertaining specifically to wireless telecommunication facilities in the public right-of-way; and

WHEREAS, on the 16th day of February 2016, the City Council initiated a code amendment related to wireless telecommunication facilities in the public right-of-way; and

WHEREAS, the Planning Commission, did on May 14, 2019 and July 23, 2019, conduct study sessions to consider the initiated code amendment; and

WHEREAS, the Planning Commission, upon giving the required notice, did on the 26th day of November 2019 and 28th day of January 2020, conduct a duly advertised public hearing as prescribed by law to make recommendations to the City Council to approve Code Amendment No. 16-03; and

WHEREAS, the City Council, upon giving the required notice, did on the ____ day of _____, conduct a duly advertised public hearing as prescribed by law on the proposed ordinance; and

WHEREAS, based on review of the State CEQA Guidelines, the City Council finds and determines that the proposed ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment; and

WHEREAS, the City Council has duly considered all information presented to it, including written staff reports and any testimony provided at the public hearing, with all testimony received being made a part of the public record.

WHEREFORE, THE MAYOR AND THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY ORDAINS AS FOLLOWS:

SECTION NO. 1: Section 26-247 of the West Covina Municipal Code is hereby amended to read as follows:

(a) Prior to the granting of a conditional use permit for projects located within all land-use zones it shall be found:

- (1)(a) That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or community.
- (2)(b) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.
- (3)(c) That the site for the proposed use is adequate in size and is so shaped as to accommodate said use, as well as all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to adjust said use to the land and uses in the neighborhood and make it compatible therewith.
- (4)(d) That the site abuts streets and highways adequate in width and improvements to carry traffic generations typical of the proposed use and that street patterns of such a nature exist as to guarantee that such generations will not be channeled through residential areas on local residential streets.
- (5)(e) That the granting of such conditional use permit will not adversely affect the general plan of the city, or any other adopted plan of the city.

(b) Prior to the granting of a conditional use permit for projects located within the public right-of-way it shall be found that the findings required by Sec. 26-685-11500 have been met.

SECTION NO. 2: The Chapter 26, Article XII, Division 16 title of the West Covina Municipal Code is hereby amended to read as follows:

DIVISION 16 – WIRELESS TELECOMMUNICATION FACILITIES WITHIN ALL LAND-USE ZONES

SECTION NO. 3: Section 26-685.983 of the West Covina Municipal Code is hereby amended to read as follows:

The regulations of this division do not apply to the following:

- (1) Single ground-mounted, building-mounted, or roof-mounted receive-only AM/FM radio or television antennas, DBS dish antennas, amateur and/or citizens band radio antennas, for the sole use of the occupant of the parcel on which the antenna is located.

- (2) Wireless telecommunications facilities owned and operated by the city or other public agency when used for emergency response services, public utilities, operations, and maintenance.
- (3) This exemption does not apply to free-standing or roof-mounted satellite dish antennas greater than twenty-one (21) inches in diameter.
- (4) Wireless telecommunication facilities located in the public right-of-way, which are regulated under Article XII (Special Regulations for Unique Uses), Division 29 (Wireless Telecommunication Facilities in the Public Right-of-Way) of this chapter.

SECTION NO. 4: Section 26-685.984 of the West Covina Municipal Code is hereby amended to read as follows:

- (a) No wireless telecommunication facilities are permitted in residential zones except for the following:
 - (1) Wireless telecommunication facilities listed under section 26-685.983(1) and (2).
 - (2) Wireless telecommunication facilities located in the public right-of-way, which are regulated under Article XII (Special Regulations for Unique Uses), Division 29 (Wireless Telecommunication Facilities in the Public Right-of-Way) of this chapter.
 - (3) Wireless telecommunication facilities located in residential zones that are developed with permitted nonresidential uses.
 - (4) Wireless telecommunication facilities consisting of roof-mounted antennas located on multiple-family residential buildings.
- (b) Antennas with a solid or wire-mesh surface with a diameter or maximum width greater than twelve (12) feet are prohibited in residential zones.

SECTION NO. 5: Division 29 is hereby added to Chapter 26, Article XII of the West Covina Municipal Code to read as follows:

DIVISION 29 – WIRELESS TELECOMMUNICATION FACILITIES IN THE PUBLIC RIGHT-OF-WAY

Sec. 26-685.11000. – Purpose

This division sets forth a uniform and comprehensive set of development standards for the permitting, development, placement, design, installation, operation, and maintenance of wireless telecommunication facilities within the city's public right-of-way. The purpose of these regulations is to provide clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This division provides standards necessary (1) for the preservation of the public right-of-way ("PROW") in the city for the maximum benefit and use of the public, (2) to promote and protect public health and safety, community welfare, and the aesthetic quality

of the city consistent with the goals, objectives and policies of the general plan, and (3) to provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules and regulations, including those regulations of the Federal Communications Commission ("FCC") and California Public Utilities Commission ("CPUC"), and (4) to ensure that the use and enjoyment of the PROW is not inconvenienced by the use of the PROW for the placement of wireless facilities.

Sec. 26-685.11100. - Applicability

- (1) This division applies to the siting, construction or modification of any and all wireless telecommunications facilities proposed to be located in the public right-of-way.
- (2) Pre-Existing Facilities in the PROW. Nothing in this division shall validate any existing illegal or unpermitted wireless facilities. All existing wireless facilities shall comply with and receive an encroachment permit, when applicable, in order to be considered legal and conforming.
- (3) This division does not apply to the following:
 - (a) Amateur radio facilities;
 - (b) OTARD antennas;
 - (c) Facilities owned and operated by the city for its use or for public safety purposes;
 - (d) Any entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement, excepting that to the extent such the terms of state or federal law, or franchise agreement, are preemptive of the terms of this division, then the terms of this division shall be severable to the extent of such preemption and all remaining regulations shall remain in full force and effect. Nothing in the exemption shall apply so as to preempt the city's valid exercise of police powers that do not substantially impair franchise contract rights;
 - (e) Installation of a COW or a similar structure for a temporary period in connection with an emergency or event at the discretion of the city engineer, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.
- (4) Public Use. Except as otherwise provided by state or federal law, any use of the PROW authorized pursuant to this division will be subordinate to the city's use and use by the public.

Sec. 26-685.11200. - Definition

- (1) "Accessory equipment" means any and all on-site equipment, including, without limitation, back-up generators and power supply units, cabinets, coaxial and fiber optic cables, connections, equipment buildings, shelters, vaults, radio transceivers, transmitters, pedestals, splice boxes, fencing and shielding, surface location markers, meters, regular power supply units, fans, air conditioning units, cables and wiring, to which an antenna is attached in order to facilitate the provision of wireless telecommunication services.

- (2) "Antenna" means any system of wires, poles, rods, reflecting discs, or similar devices of various sizes, materials and shapes including but not limited to solid or wire-mesh dish, horn, spherical, or bar configured arrangements, used for the transmission or reception of electromagnetic signals.
- (3) "Antenna array" shall mean two or more antennas having active elements extending in one or more directions, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be part of the antenna.
- (4) "Approval authority" means the city official responsible for reviewing applications for small cell permits and vested with the authority to approve, conditionally approve or deny such applications.
- (5) "Base station" shall have the meaning as set forth in Title 47 Code of Federal Regulations (C.F.R.) Section 1.40001(b)(1), or any successor provision. This means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network (regardless of the technological configuration, and encompassing DAS and small cells). "Base station" does not encompass a tower or any equipment associated with a tower. Base station includes, without limitation:
 - (a) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - (b) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small cells).
 - (c) Any structure other than a tower that, at the time the relevant application is filed with the city under this division, supports or houses equipment described in paragraphs 1. and 2. of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.
 - (d) "Base station" does not include any structure that, at the time the relevant application is filed under this division, does not support or house equipment described in paragraphs 1. and 2. of this definition. Other structures that do not host wireless telecommunications facilities are not "base stations."

As an illustration and not a limitation, the FCC's definition of "base station" refers to any structure that actually supports wireless equipment even though it was not originally intended for that purpose. Examples include, but are not limited to, wireless facilities mounted on buildings, utility poles, light standards or traffic signals. A structure without wireless equipment replaced with a new structure designed to bear the additional weight from wireless equipment constitutes a base station.
- (5) "Cellular" means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.

- (6) "City" means the City of West Covina.
- (7) "Code" means the West Covina Municipal Code.
- (8) "Collocation" means the placement of antennas, dishes, or similar devices owned or used by two (2) or more telecommunication providers on one (1) antenna support structure, building, pole, or structure.
- (9) "Concealed" or "concealment" means camouflaging techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique.
- (10) "COW" means a "cell on wheels," which is a portable, self-contained wireless telecommunications facility that can be moved to a location and set up to provide wireless telecommunication services, which facility is temporarily rolled in, or temporarily installed, at a location. Under this division, the maximum time a facility can be installed to be considered a COW is five days. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.
- (11) "Decorative pole" means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.
- (12) "Distributed antenna system" or "DAS" means a network of spatially separated antennas (nodes) connected to a common source (a hub) via a transport medium (often fiber optics) that provide wireless telecommunications service within a specific geographic area or building. DAS includes the transport medium, the hub, and any other equipment to which the DAS network or its antennas or nodes are connected to provide wireless telecommunication services.
- (13) "Eligible facilities request" means any request for modification to an existing eligible support structure that does not substantially change the physical dimensions of such structure, involving:
 - (a) Collocation of new transmission equipment;
 - (b) Removal of transmission equipment;
 - (c) Replacement of transmission equipment (replacement does not include completely replacing the underlying support structure); or
 - (d) Hardening through structural enhancement where such hardening is necessary to accomplish the eligible facilities request, but does not include replacement of the underlying support structure.

"Eligible facilities request" does not include modifications or replacements when an eligible support structure was constructed or deployed without proper local review, was not required to undergo local review, or involves equipment that was not properly approved. "Eligible facilities request" does include collocation facilities satisfying all the requirements for a non-discretionary collocation facility pursuant to Government Code Section 65850.6.

- (14) "Eligible support structure" means any support structure located in the PROW that is existing at the time the relevant application is filed with the city under this division.
- (15) "Existing" means a support structure, wireless telecommunications facility, or accessory equipment that has been reviewed and approved under the city's applicable zoning or permitting process, or under another applicable state or local regulatory review process, and lawfully constructed prior to the time the relevant application is filed under this division. However, a support structure, wireless telecommunications facility, or accessory equipment that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is "existing" for purposes of this division. "Existing" does not apply to any structure that (1) was illegally constructed without all proper local agency approvals, or (2) was constructed in noncompliance with such approvals. "Existing" does not apply where an existing support structure is proposed to be replaced in furtherance of the proposed wireless telecommunications facility.
- (16) "Facility(ies)" means wireless telecommunications facility(ies).
- (17) "FCC" means the Federal Communications Commission.
- (18) "FCC shot clock" means the presumptively reasonable time frame within which the city generally must act on a given wireless application, as defined by the FCC and as may be amended from time to time. The shot clock shall commence on "day zero," which is the day the WTFP application is submitted.
- (19) "Ground-mounted" means mounted to a pole, tower or other freestanding structure which is specifically constructed for the purpose of supporting an antenna or wireless telecommunications facility and placed directly on the ground at grade level.
- (20) "Lattice tower" means an open framework structure used to support one or more antennas, typically with three or four support legs.
- (21) "Located within (or in) the public right-of-way" includes any facility which in whole or in part, itself or as part of another structure, rests upon, in, over or under the PROW.
- (22) "Ministerial permit" means any city-issued non-discretionary permit required to commence or complete any construction or other activity subject to the city's jurisdiction. Ministerial permits may include, without limitation, a building permit, construction permit, electrical permit, encroachment permit, excavation permit and/or traffic control permit.
- (23) "Modification" means a change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, changes in size, shape, color, visual design, or exterior material. "Modification" does not include repair, replacement or maintenance if those actions do not involve whatsoever any expansion, alteration, enlargement, intensification, reduction, or augmentation of an existing wireless telecommunications facility.
- (24) "Monopole" means a structure composed of a pole or tower used to support antennas or related equipment. A monopole includes a monopine, monopalm and similar monopoles

camouflaged to resemble faux trees or other faux objects attached on a monopole (e.g. water tower).

- (25) "Mounted" means attached or supported.
- (26) "OTARD antennas" means antennas covered by the "over-the-air reception devices" rule in 47 C.F.R. sections 1.4000 et seq. as may be amended or replaced from time to time.
- (27) "Permittee" means any person or entity granted a wireless telecommunication facilities permit (WTFP) pursuant to this division.
- (28) "Personal wireless services" shall have the same meaning as set forth in 47 United States Code Section 332(c)(7)(C)(i), as may be amended or superseded, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.
- (29) "Planning director" means the director of community development, or his or her designee.
- (30) "Pole" means a single shaft of wood, steel, concrete or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of this code.
- (31) "Public right-of-way" or "PROW" means a strip of land acquired by reservation, dedication, prescription, condemnation, or easement that allows for the passage of people and goods. The PROW includes, but is not necessarily limited to, streets, curbs, gutters, sidewalks, roadway medians, parkways, and parking strips. The PROW does not include land owned, controlled or operated by the city for uses unrelated to streets or the passage of people and goods, such as, without limitation, parks, city hall and community center lands, city yards, and lands supporting reservoirs, water towers, police or fire facilities and non-publicly accessible utilities.
- (32) "City Engineer" means the City Engineer, or his or her designee.
- (33) "Replacement" refers only to replacement of transmission equipment, wireless telecommunications facilities or eligible support structures where the replacement structure will be of like-for-like kind to resemble the appearance and dimensions of the structure or equipment replaced, including size, height, color, landscaping, materials and style.
 - (a) In the context of determining whether an application qualifies as an eligible facilities request, the term "replacement" relates only to the replacement of transmission equipment and does not include replacing the support structure on which the equipment is located.
 - (b) In the context of determining whether a SWF application qualifies as being placed upon a new eligible support structure or qualifies as a collocation, an application proposing the "replacement" of the underlying support structure qualifies as a new pole proposal.

- (34) "Radiofrequency emissions" (RF) means the electromagnetic signals transmitted and received using wireless telecommunication antennas.
- (35) "Section 6409" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended. The Middle Class Tax Relief and Job Creation Act of 2012 is also referenced herein occasionally as the "Spectrum Act".
- (36) "Small cell" means a low-powered antenna (node) that has a range of ten meters to two kilometers. The nodes of a "small cell" may or may not be connected by fiber. "Small," for purposes of "small cell," refers to the area covered, not the size of the facility. "Small cell" includes, but is not limited to, devices generally known as microcells, picocells and femtocells.
- (37) "Small cell network" means a network of small cells.
- (38) "Substantial change" has the same meaning as "substantial change" as defined by the FCC at 47 C.F.R. 1.40001(b)(7). Notwithstanding the definition above, if an existing pole-mounted cabinet is proposed to be replaced with an underground cabinet at a facility where there are no pre-existing ground cabinets associated with the structure, such modification may be deemed a non-substantial change, in the discretion of the planning director and based upon his/her reasonable consideration of the cabinet's proximity to residential view sheds, interference to public views and/or degradation of concealment elements. If undergrounding the cabinet is technologically infeasible such that it is materially inhibitive to the project, the planning director may allow for a ground mounted cabinet. A modification or collocation results in a "substantial change" to the physical dimensions of an eligible support structure if it does any of the following:
- (a) It increases the height of the structure by more than ten percent or more than ten feet, whichever is greater;
 - (b) It involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
 - (c) It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets. However, for towers and base stations located in the public rights-of-way, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
 - (d) It entails any excavation or deployment outside the current site. For purposes of this subsection, excavation outside the current site occurs where excavation more than 12 feet from the eligible support structure is proposed;
 - (e) It defeats the concealment or stealthing elements of the eligible support structure;
or
 - (f) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure, provided however that

this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs 1. through 4. of this definition.

- (g) For all proposed collocations and modifications, a substantial change occurs when:
- (i) The proposed collocation or modification involves more than the standard number of new equipment cabinets for the technology involved, but not to exceed four equipment cabinets;
 - (ii) The proposed collocation or modification would defeat the concealment elements of the support structure; or
 - (iii) The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval that is inconsistent with the thresholds for a substantial change described in this section.

The thresholds and conditions for a "substantial change" described in this section are disjunctive such that the violation of any individual threshold or condition results in a substantial change. The height and width thresholds for a substantial change described in this section are cumulative for each individual support structure. The cumulative limit is measured from the physical dimensions of the original structure for base stations, and for all other facilities sites in the PROW from the smallest physical dimensions that existed on or after February 22, 2012, inclusive of originally approved-appurtenances and any modifications that were approved prior to that date.

(39) "Support structure" means a tower, pole, base station or other structure used to support a wireless telecommunications facility.

(40) "SWF" means a "small wireless facility" as defined by the FCC in 47 C.F.R. 1.6002(l) as may be amended, which are personal wireless services facilities that meet all the following conditions that, solely for convenience, have been set forth below:

- (a) The facility:
- (i) Is mounted on an existing or proposed structure 50 feet or less in height, including antennas, as defined in Title 47 C.F.R. Section 1.1320(d); or
 - (ii) Is mounted on an existing or proposed structure no more than ten percent taller than other adjacent structures; or
 - (iii) Does not extend an existing structure on which it is located to a height of more than 50 feet or by more than ten percent, whichever is greater;
- (b) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;
- (c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

- (d) The facility does not require antenna structure registration under 47 C.F.R. Part 17;
- (e) The facility is not located on Tribal lands, as defined under Title 36 C.F.R. Section 800.16(x); and
- (f) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in Title 47 C.F.R. Section 1.1307(b).
- (41) "Telecommunications tower" or "tower" bears the meaning ascribed to wireless towers by the FCC in 47 C.F.R. § 1.40001(b)(9), including without limitation a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.
- (42) "Transmission equipment" means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (43) "Utility pole" means any pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission. A telecommunications tower is not a utility pole.
- (44) "Wireless telecommunications facility" means a mechanical device, land, and/or structure that is used to transmit and/or receive electromagnetic signals, including but not limited to antennas, microwave dishes, horn, and other types of equipment for the transmission or receipt of such signals, free-standing wireless facilities, equipment buildings or cabinets, parking areas, and other accessory development. Exceptions: The term "wireless telecommunications facility" does not apply to the following:

 - (a) Government-owned and operated telecommunications facilities.
 - (b) Emergency medical care provider-owned and operated telecommunications facilities.
 - (c) Mobile services providing public information coverage of news events of a temporary nature.
 - (d) Any wireless telecommunications facilities exempted from this code by federal law or state law.
- (45) "Wireless telecommunications services" means the provision of services using a wireless telecommunications facility or a collocation facility, and shall include, but not be limited to, the following services: personal wireless services as defined in the Federal

Telecommunications Act of 1996 at 47 U.S.C. § 332(c)(7)(C) or its successor statute, cellular service, personal communication service, and/or data radio telecommunications.

(46) "WTFP" means a "wireless telecommunications facility permit" required by this division, which may be categorized as either a major WTFP or a minor WTFP.

Sec. 26-685.11300. - Wireless telecommunications facility permit (WTFP) review authority.

(1) Administration. The planning director is responsible for administering this division. As part of the administration of this division, the director may:

- (a) Interpret the provisions of this division;
- (b) Develop forms and procedures for submission of applications for placement or modification of wireless facilities, and proposed changes to any support structure consistent with this division;
- (c) Collect, as a condition of the completeness of any application, any fee established by this division;
- (d) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations;
- (e) Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued;
- (f) Require, as part of, and as a condition of completeness of any application, that an applicant for a wireless telecommunication facilities permit send notice to members of the public that may be affected by the placement or modification of the wireless facility and proposed changes to any support structure;
- (g) Subject to appeal as provided herein, determine whether to approve, approve subject to conditions, or deny an application; and
- (h) Take such other steps as may be required to timely act upon applications for placement of wireless telecommunications facilities, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(2) Administrative review ("Minor WTFP") required.

- (a) Certain wireless telecommunication facilities, collocations, modifications, or replacements to an eligible support structure is subject to the planning director's review of an Administrative Review application, if the following criteria are met:
 - (i) The proposal is determined to be for a SWF, or an eligible facilities request; and
 - (ii) The proposal complies with the adopted Design Guidelines for Wireless Telecommunication Facilities in the PROW; and

concerns (if applicable); coordination with other city departments/divisions responsible for application review; and application completeness issues.

- (ii) To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that city staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The approval authority shall use reasonable efforts to provide the applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the city for its reasonable costs to provide the services rendered in the pre-submittal conference.
 - (iii) Any request for a pre-submittal conference shall be in writing and shall confirm that any drafts to be provided to the city at the pre-submittal conference will not be deemed as "submissions" triggering the start of any FCC shot clock.
 - (b) All applications for WTFPs shall be initially submitted to the planning division. Each applicant shall fully and completely submit to the city a written application on a form prepared by the Planning division.
 - (c) Major WTFP applications must be submitted to the planning division at a scheduled application submission appointment. City staff will endeavor to provide applicants with an appointment within five business days after receipt of a written request therefor. A WTFP application will only be reviewed upon submission of a complete application therefor. A pre-submission appointment is not required for minor WTFPs.
 - (d) For SWF, applicants may submit up to five individual applications for a WTFP in a batch; provided, however, that SWF in a batch must be proposed with substantially the same equipment in the same configuration on the same support structure type. Each application in a batch must meet all the requirements for a complete application, which includes without limitation the application fee for each site in the batch. If any application in a batch is incomplete, the entire batch shall be deemed incomplete. If any application is withdrawn or deemed withdrawn from a batch as described in this division, the entire batch shall be deemed withdrawn. If any application in a batch fails to meet the required findings for approval, the entire batch shall be denied.
 - (e) If the wireless telecommunications facility will also require the installation of fiber, cable, or coaxial cable, such cable installations shall be included within the application form and processed in conjunction with the proposal for vertical support structure(s). Applicants shall simultaneously request fiber installation or other cable installation when seeking to install antennas in the PROW. Standalone applications for the installation of fiber, cable, or coaxial cable, or accessory equipment designed to serve an antenna must include all features of the wireless telecommunications facility proposed.
- (2) Application Contents—Minor WTFPs. The content of the application form for facilities subject to a minor WTFP shall be determined by the planning director in addition to all other information reasonably deemed necessary, but at a minimum shall include the following:
- (a) The name of the applicant, its telephone number, mailing address, electronic mail address, and contact information, and if the applicant is a wireless infrastructure provider, the

- name and contact information for the wireless service provider that will be using the wireless facility.
- (b) The name of the owner of the structure, if different from the applicant, and a signed and notarized owner's authorization for use of the structure.
 - (c) A complete description of the proposed wireless telecommunications facility and any and all work that will be required to install or modify it, including, but not limited to, details regarding proposed excavation, if any; detailed site plans showing the location of the wireless telecommunications facility, and dimensioned drawings with specifications for each element of the wireless facility, clearly describing the site and all structures and facilities at the site before and after installation or modification; and a dimensioned map identifying and describing the distance to the nearest residential dwelling unit and any historical structure within 250 feet of the facility. Before and after 360 degree photo simulations shall be provided.
 - (d) Documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the municipal code and the FCC's radio frequency emissions standards.
 - (f) A copy of the lease or other agreement, if any, between the applicant and the owner of the property to which the proposed facility will be attached.
 - (g) If the application is for a SWF, the application shall state as such and shall explain why the proposed facility meets the definition of a SWF.
 - (h) If the application is for an eligible facilities request, the application shall state as such and must contain information sufficient to show that the application qualifies as an eligible facilities request, which information must demonstrate that the eligible support structure was not constructed or deployed without proper local review, was not required to undergo local review, or involves equipment that was not properly approved. This shall include copies of all applicable local permits in-effect and as-built drawings of the current site. Before and after 360 degree photo simulations shall be provided, as well as documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the municipal code and the FCC's radio frequency emissions standards.
 - (i) For SWFs, the application shall also contain:
 - (i) Application Fee. The applicant shall submit the applicable SWF WTFP application fee established by city council resolution. Batched applications for Major WTFP projects must include the applicable application fee for each SWF in the batch.
 - (ii) Construction Drawings. The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings shall: (i) contain cut sheets that contain the technical

specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number, and physical dimensions; (ii) identify all structures within 250 feet from the proposed project site and indicate such structures' overall height above ground level; (iii) depict the applicant's plan for electric and data backhaul utilities, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.

- (iii) Site Survey. For any SWF proposed to be located within the PROW, the applicant shall submit a survey prepared, signed, and stamped by a California licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures within 250 feet from the proposed project site, which includes without limitation all: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and below-grade utilities and related structures and encroachments; (iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters and other landscaping features.
- (iv) Photo Simulations. The applicant shall submit site photographs and 360 degree photo simulations that show the existing location and proposed SWF in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point.
- (v) Project Narrative and Justification. The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility qualifies as a SWF as defined by the FCC in 47 C.F.R. 1.6002(l). A complete written narrative analysis will state the applicable standard and all the facts that allow the city to conclude the standard has been met—bare conclusions not factually supported do not constitute a complete written analysis. As part of the written statement the applicant must also include (i) whether and why the proposed support is a structure as defined by the FCC in 47 C.F.R. § 1.6002(m); and (ii) whether and why the proposed wireless facility meets each required finding for a SWF permit as provided in Section 12.18.060 (Review Procedure).
- (vi) RF Compliance Report. The applicant shall submit an RF exposure compliance report that certifies that the proposed SWF, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the city. The RF report must include the actual frequency and power levels (in watts ERP) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas

with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

- (vii) Regulatory Authorization. The applicant shall submit evidence of the applicant's regulatory status under federal and California law to provide the services and construct the SWF proposed in the application.
- (viii) Site Agreement. For any SWF proposed to be installed on any structure owned or controlled by the city and located within the public rights-of-way, the applicant must enter into a site agreement prepared on a form prepared by the city and approved by the city attorney that states the terms and conditions for such non-exclusive use by the applicant. No changes shall be permitted to the city's form site agreement except as may be indicated on the form itself. Any unpermitted changes to the city's form site agreement shall be deemed a basis to deem the application incomplete.
- (ix) Acoustic Analysis. The applicant shall submit an acoustic analysis prepared and certified by an acoustic engineer for the proposed SWF and all associated equipment including all environmental control units, sump pumps, temporary backup power generators and permanent backup power generators demonstrating compliance with the following noise regulations:
1. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 p.m. and 7:00 a.m.;
 2. At no time shall equipment noise from any facility exceed an exterior noise level of 55 dBA three feet from the source of the noise if the facility is located in the public right-of-way adjacent to a business, commercial, manufacturing, utility or school zone; provided, however, that for any such facility located within 500 feet of any property zoned residential or improved with a residential use, such equipment noise shall not exceed 45 dBA three feet from the sources of the noise.
 3. The acoustic analysis shall also include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of an acoustic analysis, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits.
- (x) Wind Load Analysis. The applicant shall submit a wind load analysis with an evaluation of high wind load capacity and shall include the impact of modification of an existing facility.
- (xi) Environmental Data. A completed environmental assessment application, or in the alternative any and all documentation identifying the proposed WTFP as exempt from environmental review (under the California Environmental Quality Act, Public

Resources Code 21000—21189, the National Environmental Policy Act, 42 U.S.C. §4321 et seq., or related environmental laws). Notwithstanding any determination of environmental exemption issued by another governmental entity, the city reserves its right to exercise its rights as a responsible agency to review de novo the environmental impacts of any WTFP application.

(xii) Traffic Control Plan. A traffic control plan when the proposed installation is on any street in a non-residential zone. The city shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g. crane).

(xiii) Landscape Plan. A scaled conceptual landscape plan showing existing trees and vegetation and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the SWF and its accessory equipment.

(xiv) CPCN. Certification that applicant is a telephone corporation or a statement providing the basis for its claimed right to enter the PROW. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.

(xvi) Master Deployment Plan. A master deployment plan showing the locations of existing and proposed small wireless facilities over the next two years.

(j) If the applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the application must provide all information on which the applicant relies on in support of that claim. Applicants are not permitted to supplement this showing if doing so would prevent the city from complying with any deadline for action on an application or FCC shot clock.

(3) Application Contents—Major WTFPs. The application form for a major WTFP shall require the following information, in addition to all other information determined necessary by the planning director:

(a) The name, address, and telephone number of the applicant, owner, and the operator of the proposed wireless telecommunication facility.

(b) If the applicant does not, or will not, own the support structure, the applicant shall provide a duly-executed letter of authorization from the owner of the structure. If the owner of the support structure is the applicant, but such owner/applicant will not directly provide wireless telecommunications services, the owner/applicant shall provide a duly-executed letter of authorization from the person(s) or entity(ies) that will provide those services.

(c) A full written description of the proposed wireless telecommunications facility and its purpose.

(d) Detailed engineering plans of the proposed wireless telecommunications facility and related report prepared by a professional engineer registered in the state documenting the following:

(i) Height/elevation, diameter, layout and design of the facility, including technical engineering specifications, economic and other pertinent factors governing selection

- of the proposed design, together with evidence that demonstrates that the proposed facility has been designed to be the least intrusive equipment within the particular technology available to the carrier for deployment.
- (ii) A photograph and model name and number of each piece of the facility or proposed antenna array and accessory equipment included.
 - (iii) Power output and operating frequency for the proposed antenna array (including any antennas existing as of the date of the application serving the carrier identified in the application).
 - (iv) Total anticipated capacity of the wireless telecommunications facility for the subject carrier, indicating the number and types of antennas and power and frequency ranges, which can be accommodated.
 - (v) Sufficient evidence of the structural integrity of the support structure as required by the city.
- (e) A written description identifying the geographic service area to be served by the proposed WTFP, plus geographic or propagation maps showing applicant's service area objectives.
- (f) A justification study which includes the rationale for selecting the proposed wireless telecommunication facility design, support structure and location. A detailed explanation of the applicant's coverage objectives that the proposal would serve, and how the proposed use is the least intrusive means for the applicant to cover such objectives. This shall include:
- (i) A meaningful comparative analysis that includes all factual reasons why the proposed location and design deviates from, or is the least compliant means of, or not the least intrusive location and design necessary to reasonably achieve the applicant's reasonable objectives of covering an established significant gap (as established under state and federal law).
 - (ii) The study shall include all eligible support structures and/or alternative sites evaluated for the proposed major WTFP, and why the alternatives are not reasonably available, technically feasible options that most closely conform to the local values. The alternative site analysis must include the consideration of at least two eligible support structures; or, if no eligible support facilities are analyzed as alternatives, why no eligible support facilities are reasonably available or technically feasible.
 - (iii) If a portion of the proposed facility lies within a jurisdiction other than the city's jurisdiction, the applicant must demonstrate that alternative options for locating the project fully within one jurisdiction or the other is not a viable option. Applicant must demonstrate that it has obtained all approvals from the adjacent jurisdiction for the installation of the extra-jurisdictional portion of the project.
- (g) Site plan(s) to scale, specifying and depicting the exact location of the proposed wireless telecommunications facility, location of accessory equipment in relation to the support structure, access or utility easements, existing utilities, adjacent land uses, and showing compliance with all design and safety requirements set forth in this division.

- (h) A completed environmental assessment application, or in the alternative any and all documentation identifying the proposed WTFP as exempt from environmental review (under the California Environmental Quality Act, Public Resources Code 21000-21189, the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., or related environmental laws). Notwithstanding any determination of environmental exemption issued by another governmental entity, the city reserves its right to exercise its rights as a responsible agency to review de novo the environmental impacts of any WTFP application.
- (i) An accurate visual impact analysis showing the maximum silhouette, view-shed analysis, color and finish palette and proposed screening for the wireless telecommunications facility, including scaled photo simulations from at least three different angles.
- (j) Completion of the RF emissions exposure guidelines checklist contained in Appendix A to the FCC's "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to determine whether the facility will be "categorically excluded" as that term is used by the FCC.
- (k) For a facility that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the city that certifies that the proposed facility, as well as any facilities that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts effective radio power "ERP") for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
- (l) Copies of any documents that the applicant is required to file pursuant to Federal Aviation Administration regulations for the proposed wireless telecommunications facility.
- (m) A noise study prepared by a qualified acoustic engineer documenting that the level of noise to be emitted by the proposed wireless telecommunications facility will comply with this code, including Chapter 15, Article IV (Noise Regulations) of this code.
- (n) A traffic control plan. The city shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g., crane).
- (o) A scaled conceptual landscape plan showing existing trees and vegetation and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the wireless telecommunication facility.
- (p) Certification that applicant is a telephone corporation, or a statement providing the basis for its claimed right to enter the right-of-way. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.

- (q) Evidence that the proposed wireless facility qualifies as a personal wireless services facility.
 - (r) Address labels for use by the city in noticing all property owners and occupants of properties within 300 feet of the proposed wireless telecommunication facility and, if applicable, all public hearing information required by the municipal code for public noticing requirements.
 - (s) Any other information and/or studies reasonably determined to be necessary by the planning director(s) may be required.
- (4) Application Fees and Deposits. For all WTFPs, application fee(s) and the establishment of deposits to cover outside consultant costs shall be required to be submitted with any application, as established by city council resolution and in accordance with California Government Code Section 50030.
- (a) Reasonable costs of city staff, consultant and attorney time (including that of the city attorney) pertaining to the review, processing, noticing and hearing procedures directly attributable to a WTFP shall be reimbursable to the city. To this end, the planning director, as applicable, may require applicants to enter a deposit reimbursement agreement, in a form approved by the city attorney, or other established deposit accounting mechanism for purposes of obtaining an applicant deposit from which the direct costs of city processing of an application may be drawn-down.
- (5) Effect of State or Federal Law on Application Process. In the event a state or federal law prohibits the collection of any information or application conditions required by this section, the planning director is authorized to omit, modify, or add to that request from the city's application form in consultation with the city attorney. Requests for waivers from any application requirement of this section shall be made in writing to the planning director. The planning director may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of a waiver, the city will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the WTFP sought. All waivers approved pursuant to this subsection shall be (1) granted only on a case-by-case basis, and (2) narrowly-tailored to minimize deviation from the requirements of the municipal code.
- (6) Applications Deemed Withdrawn. To promote efficient review and timely decisions, any application governed by this division will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the city on any application within 30 calendar days after the application is deemed incomplete in a written notice to the applicant. The planning director (as applicable) may grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the application deemed automatically withdrawn that shows good cause to grant the extension.
- (7) Waiver of Applications Superseded by Submission of New Project. If an applicant submits a WTFP application, but substantially revises the proposed facility during the application process prior to any city hearing or decision on such application, the substantially revised application shall be deemed a new application for all processing purposes, including FCC shot clocks, and the prior submittals deemed waived and superseded by the substantially revised application. For purposes of this subparagraph, "substantially revised" means that the project as initially-proposed has been alternately proposed for a location 300 feet or more from the

original proposal or constitutes a substantial change in the dimensions or equipment that was proposed in the original WTFP application.

- (8) Rejection for Incompleteness. WTFPs will be processed, and notices of incompleteness provided, in conformity with state, local, and federal law. If such an application is incomplete, it may be rejected by the planning director by notifying the applicant in writing and specifying the material omitted from the application.

Sec. 26-685.11500. - Review procedure.

- (1) General. Wireless telecommunications facilities shall be installed and modified in a manner that minimizes risk to public safety and utilizes installation of new support structures or equipment cabinets in the PROW only after all existing and replacement structure options have been exhausted, and where feasible, places equipment underground, and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located; ensures that installations are subject to periodic review to minimize the intrusion on the PROW; and ensures that the city bears no risk or liability as a result of the installations, and that such use does not inconvenience the public, interfere with the primary uses of the PROW, or hinder the ability of the city or other government agencies to improve, modify, relocate, abandon, or vacate the PROW or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the PROW.
- (2) Collocation Encouraged. Where the facility site is capable of accommodating a collocated facility upon the same site in a manner consistent with the permit conditions for the existing facility, the owner and operator of the existing facility shall allow collocation of third-party facilities, provided the parties can mutually agree upon reasonable terms and conditions therefor.
- (3) Findings Required for Approval of a WTFP.
- (a) Minor WTFP for SWF. For minor WTFP applications proposing a SWF, the planning director or planning commission shall approve such application if, on the basis of the application and other materials or evidence provided in review thereof, all of the following findings can be made:
- (i) The facility qualifies as a SWF;
 - (ii) The facility is not detrimental to the public health, safety, and welfare;
 - (iii) The SWF meets applicable requirements and standards of state and federal law;
 - (vi) The facility meets applicable requirements under this division and complies with the adopted Design Guidelines.
- (b) Minor WTFP for EFR. For minor WTFP applications proposing an eligible facilities request, the planning director shall approve such application if, on the basis of the application and other materials or evidence provided in review thereof, all of the following findings can be made:
- (i) That the application qualifies as an eligible facilities request; and
 - (ii) That the proposed facility will comply with all generally-applicable laws.

- (c) Major WTFP. No major WTFP shall be granted unless all of the following findings are made by the applicable decision-maker:

 - (i) The proposed wireless telecommunications facility has been designed and located in compliance with all applicable provisions of this division;
 - (ii) If applicable, the applicant has demonstrated its inability to locate on an eligible support structure;
 - (iii) The applicant has provided sufficient evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise agreement with the city permitting them to use the public right-of-way;
 - (iv) If applicable, the applicant has provided sufficient evidence supporting the applicant's claim that compliance with the adopted Design Guidelines would be technically infeasible;
 - (v) The applicant has demonstrated the proposed installation is designed such that the proposed installation represents the least intrusive means possible, supported by factual evidence and a meaningful comparative analysis to show that all alternative locations and designs identified in the application review process were technically infeasible or not reasonably available.
- (4) Noticing. The provisions in this section describe the procedures for the approval process, any required notice and public hearings for a WTFP application.

 - (a) Major WTFP Applications. Any major WTFP application shall require notice and a public hearing. The public hearing notices shall be provided as set forth in Section 26-206 of the West Covina Municipal Code.
- (5) Notice of Decision. Within five days after any decision to grant, approve, deny, or conditionally grant any WTFP application, the planning director, as applicable, shall provide written notice based on substantial evidence in the written administrative record including the following:

 - (a) A general explanation of the decision, including the findings required for the decision, if any, and how those findings were supported or not supported by substantial evidence;
 - (b) A general description of the property involved;
 - (c) Information about applicable rights to appeal the decision, costs to appeal, and explanation of how that right may be exercised; and
 - (d) To be given by first class mail to the project applicant and property owner;
 - (e) Once a WTFP is approved, no changes shall be made to the approved plans without review and approval in accordance with this division.
 - (f) Because Section 332(c)(7) of the Telecommunications Act preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, no decision upon a WTFP shall be premised upon the environmental or health

effects of RF emissions, nor shall public comments be considered to the extent they are premised upon the environmental or health effects of RF emissions.

(6) Appeals.

- (a) An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless facility. Because Section 332(c)(7) of the Telecommunications Act preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, appeals of WTFP decision premised on the environmental effects of radio frequency emissions will not be considered.
- (b) WTFP Appeals. Any person claiming to be adversely affected by a decision of a major WTFP pursuant to this division may appeal such decision as provided in accordance with the appeal provisions in Section 26-212 of the West Covina Municipal Code.

Sec. 26-685.11600 - Design and development standards.

(1) Wireless Telecommunication Facility Design and Development Standards. Wireless telecommunication facilities in the PROW are subject to the design and development standards and conditions of approval set forth herein. All wireless telecommunication facilities shall be designed and maintained as to minimize visual, noise and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the following standards:

(a) Concealment. All Wireless telecommunication facilities shall employ concealment, screening, undergrounding, and camouflage methods and techniques in order to ensure that the facility is visually screened and blends into the environment to prevent the facility from dominating the surrounding area, as well as to be compatible with the architectural character of the surrounding buildings or structures per the adopted Design Guidelines.

(b) Location.

- (i) Wireless telecommunication facilities shall not be located within the center median of any street.
- (ii) SWFs shall not be located within 15 feet from any structure used for residential purposes in the PCD-1 zone.
- (iii) SWFs shall not be located within 30 feet from any structure used for residential purposes in all other land-use zones outside of the PCD-1 zone.
- (vi) SWFs may not encroach onto or over any private or other property outside the PROW unless on a recorded utility easement.
- (v) Wireless telecommunication facilities shall not be located within the drip-line of any tree located on private property as set forth in Section 26-294 (Protection of trees during development activity) of this code.
- (vi) All wireless telecommunications facilities subject to a major WTFP shall not be located in the PROW adjacent to properties used for residential purposes.

- (vii) All wireless telecommunications facilities subject to a major WTFP shall not be located in the PROW within 100 feet of designated historic buildings.
- (c) Noise. All wireless telecommunication facilities and accessory equipment shall comply with all applicable noise control standards and regulations stated in this division, including the following:

 - (i) Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 p.m. and 7:00 a.m.;
 - (ii) At no time shall equipment noise from any facility exceed an exterior noise level of 55 dBA three feet from the source of the noise if the facility is located in the public right-of-way adjacent to a business, commercial, manufacturing, utility or school zone; provided, however, that for any such facility located within 500 feet of any property zoned residential or improved with a residential use, such equipment noise shall not exceed 45 dBA three feet from the sources of the noise.
- (d) Landscaping. Wireless telecommunication facilities shall not displace any existing landscape features in the PROW unless: (1) such displaced landscaping is replaced with plants, trees or other landscape features approved by the public services director or his or her designee and (2) the applicant submits and adheres to a landscape maintenance plan. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location. Landscape maintenance shall be performed in accordance to the public services director, or his or her designee. To preserve existing landscaping in the PROW, all work performed in connection with wireless telecommunication facilities shall not cause any street trees to be trimmed, damaged or displaced. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant and maintain replacement trees at the site for the duration of the permit term.
- (e) No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the city.
- (f) Accessory Equipment. Not including the electric meter, all accessory equipment shall be located underground unless city staff determines that there is no room in the PROW for undergrounding or that undergrounding is not feasible. Such accessory equipment shall be enclosed with a structure and shall be fully screened and camouflaged, including the use of landscaping, architectural treatment or other acceptable alternate screening method. Required electrical meters or cabinets shall be screened and/or camouflaged per the adopted Design Guidelines.
- (g) Support Structures. Only pole-mounted antennas shall be permitted in the PROW. Mounting to all other forms of support structure in the PROW are prohibited.

 - (i) Utility Poles. Wireless telecommunication facilities proposed to be installed on an existing utility pole must install all antennas above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the written record. The maximum height of any antenna or equipment above the pole shall not exceed five

- (5) feet. Antennas must be concealed within a shroud. All cables, wires and other connectors must be concealed within the side-arm mount or extension arm of a wood pole and within the inside of any other pole. The maximum horizontal separation between the antenna and the pole shall be the minimum separation required by applicable health and safety regulations.
- (ii) Streetlight Poles. The maximum height of any antenna and equipment shall not exceed five (5) feet above the existing height of other streetlight pole(s) installed along the same street.
- (iii) Replacement Poles. If an applicant proposes to replace a pole that is an eligible support structure to accommodate the proposed facility, the replacement pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible.
- (iv) New, Non-Replacement Poles. Wireless telecommunication facilities on a new, non-replacement pole must install a new streetlight pole substantially similar to the city's and/or electric utility provider's standards and specifications but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter shall not exceed 12 inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome, and shall comply with the following:
1. The new pole must function for a purpose other than placement of a wireless facility (e.g., street light, street sign poles, etc.).
 2. The design must match the dimensions and design of existing and similar types of poles and antennas in the surrounding areas.
- (h) Obstructions; Public Safety. SWF and any associated equipment or improvements shall not physically interfere with or impede access to any:
- (i) Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, incommode the public's use of the right-of-way, or cause safety hazards to pedestrians and motorists.
 - (ii) A facility shall not be located within any portion of the public right of-way interfering with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility.
 - (iii) Doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way;
- (2) Eligible Facilities Request Design and Development Standards. Approved eligible facilities requests for which the findings set forth in Section 26-685.11500 have been made are subject to the following, unless modified by the approving authority:

- (a) WTFP Subject to Conditions of Underlying Permit. Any WTFP granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit and all such conditions that were applicable to the facility prior to approval of the subject eligible facility request.
 - (b) No Permit Term Extension. The city granting, or granting by operation of law, of an eligible facilities request permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the city's granting, or granting by operation of law, of an eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall have the same term as the underlying permit or other regulatory approval for the subject tower or base station.
 - (c) No Waiver of Standing. The city's granting, or granting by operation of law, of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the city to challenge Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.
- (3) Conditions of Approval. All wireless telecommunication facilities shall be subject to conditions of approval as reasonably imposed by the planning director or the approving city body, as applicable, as well as any modification of the conditions of approval deemed necessary by the planning director or approving city body.

Sec. 26-685.11700 Operation and maintenance standards.

All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards:

- (1) The permittee shall at all times maintain compliance with all applicable federal, state, and local laws, regulations and other rules, including, without limitation, those applying to use of the PROW. The permittee shall ensure that all equipment and other improvements to be constructed and/or installed in connection with the approved WTFP are maintained in a manner that is not detrimental or injurious to the public health, safety, and general welfare and that the aesthetic appearance is continuously preserved, and substantially the same as shown in the approved plans at all times relevant to the WTFP.
- (2) Unless otherwise provided herein, all necessary repairs and restoration shall be completed by the permittee, owner, operator or any designated maintenance agent at its sole cost within 48 hours:
 - (a) After discovery of the need by the permittee, owner, operator, or any designated maintenance agent; or
 - (b) After permittee, owner, operator, or any designated maintenance agent receives notification from the city.
- (3) Insurance. The permittee shall obtain and maintain throughout the term of the permit a type and amount of insurance as specified by city's risk management. The relevant policy(ies) shall

name the city, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insured. The permittee shall use its best efforts to provide 30 days prior notice to the city engineer of the cancellation or material modification of any applicable insurance policy.

- (4) Indemnities. The permittee and, if applicable, the owner of the property upon which the wireless facility is installed shall defend, indemnify and hold harmless the city, its agents, officers, officials, and employees (a) from any and all damages, liabilities, injuries, losses, costs, and expenses, and from any and all claims, demands, law suits, writs of mandamus, and other actions or proceedings brought against the city or its agents, officers, officials, or employees to challenge, attack, seek to modify, set aside, void or annul the city's approval of the permit, and (b) from any and all damages, liabilities, injuries, losses, costs, and expenses, and any and all claims, demands, law suits, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the permittee or, if applicable, the private property owner or any of each one's agents, employees, licensees, contractors, subcontractors, or independent contractors. In the event the city becomes aware of any such actions or claims the city shall promptly notify the permittee and, if applicable, the private property owner and shall reasonably cooperate in the defense. The city shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the city's defense, and the property owner and/or permittee (as applicable) shall reimburse the city for any costs and expenses directly and necessarily incurred by the city in the course.
- (5) Performance Bond. Prior to issuance of a wireless encroachment permit, the permittee shall file with the city, and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to 100 percent of the cost of removal of the facility as specified in the application for the WTFP or as that amount may be modified by the city engineer in the permit based on the characteristics of the installation. The permittee shall reimburse the city for staff time associated with the processing and tracking of the bond, based on the hourly rate adopted by the city council. Reimbursement shall be paid when the security is posted and during each administrative review.
- (6) Adverse Impacts on Adjacent Properties. Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, and removal of the facility. All facilities, including each piece of equipment, shall be located and placed in a manner so as to not interfere with the use of the PROW, impede the flow of vehicular or pedestrian traffic, impair the primary use and purpose of poles/signs/traffic signals or other infrastructure, interfere with outdoor dining areas or emergency facilities, or otherwise obstruct the accessibility of the PROW.
- (7) Contact Information. Each permittee of a wireless telecommunications facility shall provide the city engineer with the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator and the agent responsible for the maintenance of the

facility ("contact information"). Contact information shall be updated within seven days of any change.

- (8) All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:
- (a) Subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to city streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems (water, sewer, storm drains, gas, oil, electrical, etc.) that result from any activities performed in connection with the installation and/or maintenance of a wireless facility in the PROW;
 - (b) General dirt and grease;
 - (c) Chipped, faded, peeling, and cracked paint;
 - (d) Rust and corrosion;
 - (e) Cracks, dents, and discoloration;
 - (f) Missing, discolored or damaged artificial foliage or other camouflage;
 - (g) Graffiti, bills, stickers, advertisements, litter and debris. All graffiti on facilities must be removed at the sole expense of the permittee within 48 hours after notification from the city;
 - (h) Broken and misshapen structural parts; and
 - (i) Any damage from any cause.
- (9) All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in neat, safe and good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the planning director and public services director.
- (10) The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.
- (11) Each facility shall be operated and maintained to comply with all conditions of approval. The permittee, when directed by the city, must perform an inspection of the facility and submit a report to the planning director and city engineer on the condition of the facility to include any identified concerns and corrective action taken. Additionally, as the city performs maintenance on city-owned infrastructure, additional maintenance concerns may be identified. These will be reported to the permittee. The city shall give the permittee 30 days to correct the identified maintenance concerns after which the city reserves the right to take any action it deems necessary, which could include revocation of the permit. The burden is on the permittee to demonstrate that it complies with the requirements herein. Prior to issuance of a permit under this division, the owner of the facility shall sign an affidavit

attesting to understanding the city's requirement for performance of annual inspections and reporting.

(12) All facilities permitted pursuant to this division shall comply with the Americans with Disabilities Act.

(13) The permittee shall be responsible for obtaining power to the facility and for the cost of electrical usage.

(14) Interference.

(a) The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement, or property without the prior consent of the owner of that structure, improvement, or property. No structure, improvement, or property owned by the city shall be moved to accommodate a permitted activity or encroachment, unless the city determines that such movement will not adversely affect the city or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the city's structure, improvement, or property. Prior to commencement of any work pursuant to a wireless encroachment permit, the permittee shall provide the city with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement, or property within the PROW or city utility easement to be affected by permittee's facilities.

(b) The facility shall not damage or interfere in any way with city property, the city's operations or the operations of prior-existing, third party installations. The city will reasonably cooperate with the permittee and/or carrier to carry out such activities as are necessary to correct the interference.

(i) Signal Interference. The permittee shall correct any such interference within 24 hours of written notification of the interference. Upon the expiration of the 24-hour cure period and until the cause of the interference is eliminated, the permittee shall cease operation of any facility causing such interference until such interference is cured.

(ii) Physical Interference. The city shall give the permittee 30 days to correct the interference after which the city reserves the right to take any action it deems necessary, which could include revocation of the permit.

(c) The city at all times reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter, or improve the sites. Such actions may temporarily interfere with the operation of the facility. The city will in all cases, other than emergencies, give the applicant 30 days written notification of such planned, non-emergency actions.

(14) RF Exposure Compliance. All facilities shall comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards. After transmitter and antenna system optimization, but prior to unattended operations of the facility, the permittee or its representative must conduct on-site post-installation RF emissions testing to demonstrate actual compliance with the FCC Office of Engineering and Technology Bulletin 65 RF Emissions Safety Rules for General Population/Uncontrolled RF Exposure in All Sectors. For this testing, the transmitter shall be

operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit.

(a) Testing of any equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m. Testing is prohibited on holidays and weekends.

(15) Records. The permittee shall maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition or fails to produce true and complete copies of such records within a reasonable time after a written request from the city, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.

(16) Attorney's Fees. In the event the city determines that it is necessary to take legal action to enforce any of these conditions, or to revoke a permit, and such legal action is taken, the permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the city, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the city should otherwise agree with permittee to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails in the enforcement proceeding.

Sec. 26-685.11800 No dangerous condition or obstructions allowed.

No person shall install, use or maintain any wireless telecommunications facility that in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

Sec. 26-685.11900 Nonexclusive grant; no possessory interests.

(1) No permit or approval granted under this division shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the city for any purpose whatsoever. Further, no approval shall be construed as a warranty of title.

(2) No possessory interest is created by a WTFP. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, the permittee acknowledges that the city has given to the applicant notice pursuant to California Revenue and Taxation Code Section 107.6 that the use or occupancy of any public property pursuant to a WTFP may create a possessory interest which may be subject to the payment of property taxes levied upon such interest. Wireless telecommunications facility operators shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interest

taxes or other taxes, fees, and assessments levied against their right to possession, occupancy, or use of any public property pursuant to any right of possession, occupancy, or use created by the WTFP.

- (3) The permission granted by a WTFP shall not in any event constitute an easement on or an encumbrance against the PROW. No right, title, or interest (including franchise interest) in the PROW, or any part thereof, shall vest or accrue in permittee by reason of a wireless encroachment permit or the issuance of any other permit or exercise of any privilege given thereby.

Sec. 26-685.12000 Permit expiration; abandonment of applications.

- (1) Permit Term. Unless Government Code Section 65964, as may be amended, authorizes the city to issue a permit with a shorter term, a permit for any wireless telecommunications facility shall be valid for a period of ten (10) years, unless pursuant to another provision of this code it lapses sooner or is revoked. At the end of ten (10) years from the date of issuance, such permit shall automatically expire.
- (2) A permittee may apply for a new permit within 180 days prior to expiration. Said application and proposal shall comply with the city's current code requirements for wireless telecommunications facilities.
- (3) Timing of Installation. The installation and construction authorized by a WTFP shall begin within one year after its approval, or it will expire without further action by the city. The installation and construction authorized by a WTFP shall conclude, including any necessary post-installation repairs and/or restoration to the PROW, within 30 days following the day construction commenced.
- (4) Commencement of Operations. The operation of the approved facility shall commence no later than 90 days after the completion of installation, or the WTFP will expire without further action by the city. The permittee shall provide the planning director and city engineer notice that operations have commenced by the same date.

Sec. 26-685.12100 Cessation of use or abandonment.

- (1) A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days unless the permittee has obtained prior written approval from the director which shall not be unreasonably denied. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.
- (2) The operator of a facility shall notify the planning director and city engineer in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within ten days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the planning director and city engineer of any discontinuation of operations of 30 days or more.
- (3) Failure to inform the planning director and city engineer of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:

- (a) Litigation;
- (b) Revocation or modification of the permit;
- (c) Acting on any bond or other assurance required by this article or conditions of approval of the permit;
- (d) Removal of the facilities by the city in accordance with the procedures established under this code for abatement of a public nuisance at the owner's expense; and/or
- (e) Any other remedies permitted under this code or by law.

Sec. 26-685.12200 Removal and restoration—Permit expiration, revocation or abandonment.

- (1) Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the WTFP or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to the condition it was in prior to the granting of the WTFP, except for retaining the landscaping improvements and any other improvements at the discretion of the city. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the city. Expired, terminated or revoked wireless telecommunications facility equipment shall be removed from the site at no cost or expense to the city.
- (2) Failure of the permittee, owner or operator to promptly remove its facility and restore the property within ninety (90) days after expiration, earlier termination or revocation of the WTFP, or abandonment of the facility, shall be a violation of this code. Upon a showing of good cause, an extension may be granted by the city engineer where circumstances are beyond the control of the permittee after expiration. Further failure to abide by the timeline provided in this section shall be grounds for:
 - (a) Prosecution;
 - (b) Acting on any security instrument required by this division or conditions of approval of permit;
 - (c) Removal of the facilities by the city in accordance with the procedures established under this code for abatement of a public nuisance at the owner's expense; and/or
 - (d) Any other remedies permitted under this code or by law.
- (3) Summary Removal. In the event any city director or city engineer determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes an immediate dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), such director or city engineer may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility shall be treated as abandoned property.

(4) Removal of Facilities by City. In the event the city removes a wireless telecommunications facility in accordance with nuisance abatement procedures stated in Chapter 15, Article IX (Administrative Nuisance Abatement) of this code or pursuant to the summary removal procedures of subsection (3), above, any such removal shall be without any liability to the city for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the city may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with this code. Unless otherwise provided herein, the city has no obligation to store such facility. Neither the permittee, owner nor operator shall have any claim if the city destroys any such facility not timely removed by the permittee, owner or operator after notice, or removal by the city due to exigent circumstances.

Sec. 26-685.12300 Effect on other ordinances.

Compliance with the provisions of this division shall not relieve a person from complying with any other applicable provision of this code. In the event of a conflict between any provision of this division and other sections of this code, this division shall control.

Sec. 26-685.12400 State or federal law.

The implementation of this chapter and decisions on applications for placement of wireless telecommunications facilities in the PROW shall, at a minimum, ensure that the requirements of this division are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this division may be waived, but only to the minimum extent required to avoid the prohibition or violation.

Sec. 26-685.12500 Legal nonconforming wireless telecommunications facilities in the right-of-way.

- (1) Legal nonconforming wireless telecommunications facilities are those facilities that existed but did not conform to this division on the date this division became effective.
- (2) Legal nonconforming wireless telecommunications facilities shall, within ten (10) years from the date this division became effective, be brought into conformity with all requirements of this article; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change in a conditional use, the owner shall comply with all applicable provisions of this code at such time, to the extent the city can require such compliance under federal and state law.
- (3) An aggrieved person may file an appeal to the city council of any decision the planning director, city engineer, or other deciding body made pursuant to this section. In the event of an appeal alleging that the ten-year amortization period is not reasonable as applied to a particular property, the city council may consider the amount of investment or original cost, present actual or depreciated value, dates of construction, amortization for tax purposes, salvage value, remaining useful life, the length and remaining term of the lease under which it is maintained (if any), and the harm to the public if the structure remains standing beyond

the prescribed amortization period, and set an amortization period accordingly for the specific property.

SECTION NO. 6: That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published as required by law.

SECTION NO. 7: This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage.

PASSED, APPROVED AND ADOPTED this _____.

Tony Wu
Mayor

APPROVED AS TO FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, CARRIE GALLAGHER, Assistant City Clerk, of the City of West Covina, custodian of the original records, which are public records which I maintain custody and control for the City of West Covina do hereby certify the foregoing Ordinance, being Ordinance No. ____ as passed by the City Council of the City of West Covina, signed by the Mayor of said Council, and attested by the Assistant City Clerk, at a regular meeting of the City Council held on the _____, and that the same was passed by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAINED:

Lisa Sherrick
Assistant City Clerk

PLANNING COMMISSION
RESOLUTION NO. 19 - 5986

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
WEST COVINA, CALIFORNIA, ADOPTING DESIGN GUIDELINES
FOR SMALL WIRELESS FACILITIES

GENERAL EXEMPTION

APPLICANT: City of West Covina

LOCATION: Citywide

WHEREAS, the Planning Commission, did on the 23rd day of April 2019, adopted design guidelines for small wireless facilities; and

WHEREAS, studies and investigations made by this Commission and on its behalf reveal the following facts:

1. The Municipal Code currently has standards for Wireless Telecommunication Facilities which were adopted in 1997.
2. The Federal Communications Commission (FCC) has issued Order 18-133 which, among other undertakings, requires that aesthetic standards for small wireless communications facilities in the public right-of-way be 1) reasonable, 2) no more burdensome than applied to other types of infrastructure deployments, 3) objective, and 4) published in advance.
3. It is the desire of the City of West Covina to encourage an aesthetically pleasing local environment. It is also the intent of the City to encourage the expansion of wireless technology because it provides a valuable service to residents and businesses in the city. It is the City's goal to encourage wireless providers to construct new facilities in a way that blends architecturally with the built environment
4. The City of West Covina strives to comply with Federal and State mandates.
5. The proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the proposed action consists of the adoption of design guidelines, which does not have the potential for causing a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of West Covina as follows:

SECTION NO. 1: The above recitals are true and correct and are incorporated herein as if set forth herein in full.

SECTION NO. 2: Based on the evidence presented and the findings set forth, adoption of Design guidelines will promote compliance with Federal Communications Commission (FCC) Order 18-133 while also promoting the City's aesthetic design preferences for such facilities.

SECTION NO. 3: Based on the evidence presented and the findings set forth, the Planning Commission of the City of West Covina hereby adopts the Design Guidelines as set forth on Exhibit "A."

SECTION NO. 4: The Secretary is instructed to forward a copy of this Resolution to the City Council for their attention in the manner as prescribed by law and this Resolution shall go into force and effect upon its adoption.

I HEREBY CERTIFY, that the foregoing Resolution was adopted by the Planning Commission of the City of West Covina, at a regular meeting held on the 23th day of April, 2019, by the following vote.

AYES: Holtz, Heng, Kennedy, Redholtz

NOES: None

ABSTAIN: None

ABSENT: Jaquez

DATE: 4/23/19



Herb Redholtz, Chairman
Planning Commission



Jeff Anderson, Secretary
Planning Commission

EXHIBIT A

(See next page for the Design Guidelines)



CITY OF WEST COVINA SMALL WIRELESS FACILITY DESIGN GUIDELINES IN THE PUBLIC RIGHT OF WAY

Review Process – Small cells require an administrative use permit per WCMC Section 26-685.985. Staff will be recommending approval if facility complies with the following design standards.

Location – Locate 100 feet away from properties used for residential purposes.

Facility and Support Equipment – Facilities should be proposed on existing aggregate light poles. A replacement light pole should be no more than 3 feet from the existing pole location. All facilities shall be designed, textured and colored to match the existing light pole for aesthetic consistency. The base of the pole should be a maximum of 16 inches in diameter. New and/or replacement poles shall be aggregate/marbilite, in a mix, blend, color, and shape/contour to match existing poles in the vicinity.

Narrow Vertical Alignment – Consider the use of shrouds and equipment enclosures that are nearly the same diameter as the pole at a ratio of approximately 1:1 for a more visually streamlined form from the street level. Avoid any tilted arrangement.

Antenna & RRU – Place antenna and RRUs within a shroud above the light pole. RRUs attached to the side of the pole are discouraged; but if required and with discretionary approval, it should use the smallest RRU volume possible and be placed close together with minimal distance from the pole.

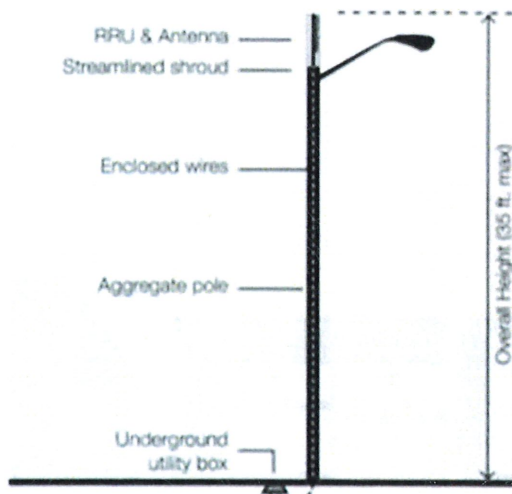
Wires & Cables – Wires and cables should be contained within the shroud and run inside the pole for an orderly appearance. If wiring cannot be contained within the pole, all wiring shall be contained within a conduit that is subdued or matches the adjacent surface and is UV protected.

Signage – Signage shall be limited to the minimum required by the government and electrical utility regulations and shall be as small and least visible as possible.

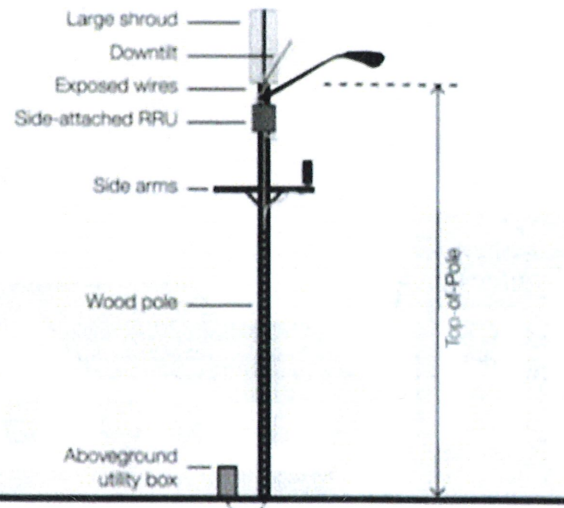
Construction Approach (including power and metering) - Separate freestanding meter pedestals should not be used. Metering should be wireless when possible, and underground if wireless metering is infeasible.

Height- Overall height of the streetlight pole, including mounted equipment, shall be similar to the surrounding poles and not exceed 35 feet in height.

Recommend Approval



Discretionary Review



A G E N D A

DATE: December 10, 2019

ITEM NO.: 1.

**MINUTES
REGULAR MEETING OF THE PLANNING COMMISSION
CITY OF WEST COVINA
Tuesday, November 26, 2019**

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the West Covina Council Chambers. The Commission observed a moment of silent prayer/meditation and Commissioner Holtz lead the Pledge of Allegiance.

ROLL CALL

Present: Heng, Holtz, Jaquez, Kennedy and Redholtz

Absent: None

City Staff Present: Bettenhauser, Persico, Anderson, Burns, Martinez and de Zara

APPROVAL OF MINUTES:

1. Regular meeting, October 22, 2019

The minutes were approved as presented.

OTHER MATTERS OR ORAL COMMUNICATIONS

None

PUBLIC HEARINGS

2. CODE AMENDMENT NO. 16-03
GENERAL EXEMPTION

LOCATION: Citywide

REQUEST: The proposed code amendment will amend Chapter 26 (Zoning) of the West Covina Municipal Code to specify submittal requirements, review process and standards for Wireless Telecommunication Facilities in the Public Right of Way.

Planning Manager Jo-Anne Burns presented the staff report. During her presentation she spoke about the FCC order that significantly reduced local jurisdiction's ability to limit small wireless facilities and showed the Commission examples of small wireless facilities in surrounding cities. Ms. Burns also explained that local jurisdictions are limited as to the things they're allowed to control. In addition, Ms. Burns told the Commission that small

wireless facilities may be approved administratively by the Community Development Director, or by the Planning Commission. There was a lengthy discussion regarding the approval process and input that will be allowed by residents.

Chairman Redholtz opened the public hearing.

PROPONENTS:

Robert Gystad, representing Crown Castle, expressed his support of the proposed Code Amendment. In addition, he answered questions regarding the design of the small wireless facilities, their location and other technical questions by the Commission.

OPPONENTS:

Fred Sykes, Jerri Potras and Angie Gillingham spoke in opposition to the code amendment. Mr. Sykes expressed his opinion that wireless telecommunication facilities should be placed underground like other utilities. He also expressed his concern that citizens are in danger because of possible radioactive waves emanating from wireless facilities. Ms. Potras expressed concern with the possibility that two small wireless facilities could be placed near her home and she expressed her dislike of their appearance. Ms. Gillingham said she was concerned that citizens wanting to attend this hearing were not able to because of the holiday.

Chairman Redholtz closed the public hearing.

There was a lengthy discussion by the Commission regarding 5G wireless service, the language in the proposed Code Amendment, submittal requirements under the proposed code regarding certification of ARC engineers, design of small wireless facilities, regulations being used in surrounding cities, distance requirements, possible co-location on small wireless facilities and design review guidelines. At the end of the discussion the Commission concurred that this public hearing should be continued to the January 28, 2020 regular Planning Commission meeting and directed staff to 1) research ten nearby cities to determine what standards they may be using for design and separation; 2) research if RF Engineers are State licensed; 3) research if the FCC keeps records of RF compliance reports; (4) research the standard size for the base of light poles, and (5) research the standard used by the City of Costa Mesa of a 500 foot separation from a providers facility.

Motion by Redholtz, seconded by Jaques, to continue the public hearing until January 28, 2020. Motion carried 5-0

A G E N D A

DATE: February 11, 2020

ITEM NO.: 1

**MINUTES
REGULAR MEETING OF THE PLANNING COMMISSION
CITY OF WEST COVINA
Tuesday, January 28, 2020**

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the West Covina Council Chambers. The Commission observed a moment of silent prayer/meditation and Commissioner Jaquez lead the Pledge of Allegiance.

ROLL CALL

Present: Heng, Holtz, Jaquez, Kennedy and Redholtz

Absent: None

City Staff Present: Bettenhauser, Anderson, Burns, Aguilar and de Zara

APPROVAL OF MINUTES:

1. Regular meeting, December 10, 2019

The minutes were approved as presented.

OTHER MATTERS OR ORAL COMMUNICATIONS

None

PUBLIC HEARINGS

2. Continued from November 26, 2019
CODE AMENDMENT NO. 16-03
GENERAL EXEMPTION
LOCATION: Citywide
REQUEST: The proposed code amendment will amend Chapter 26 (Zoning) of the West Covina Municipal Code to specify submittal requirements, review process, and standards for Wireless Telecommunications Facilities in the Public Right of Way.

Planning Manager Jo Anne Burns presented the staff report. During her presentation she reviewed the matters discussed at the previous hearing regarding small wireless facilities. In addition, she presented the results of the survey of ten surrounding cities and other information the Planning Commission had requested. She also presented photographs of existing small wireless telecommunications facilities that currently exist in West Covina.

Ms. Burns answered questions by the Commission regarding the proposed ordinance, circumstances which would require review by the Planning Commission of small wireless telecommunications facilities, how they were permitted in the past, proposed design guidelines, and how other surrounding cities are permitting them.

Staff recommended adoption of a resolution recommending approval of the proposed ordinance and an update of the design guidelines for the City Council.

Chairman Redholtz opened the public hearing.

PROPOSERS:

No one spoke in favor of the proposed code amendment.

OPPONENTS:

Fred Sykes, Mimi Quan and Raymond Quan spoke in opposition to the code amendment.

Mr. Sykes expressed his concerns with electromagnetic waves being transmitted onto residential property. He also expressed his opinion that the Federal guidelines are inadequate.

Ms. Quan asked the Planning Commission to consider recommending the strongest ordinance possible to prevent small wireless telecommunications facilities from being permitted in residential zones. She also expressed her concern that residents would not be notified or be given the opportunity to give their input about these facilities being allowed in their neighborhoods.

Mr. Quan said the Federal Communications Commission had removed cities' ability to regulate these small wireless telecommunications facilities, except when it comes to aesthetics. He urged the Planning Commission to direct staff to request ordinances from other cities and incorporate those guidelines into West Covina's code. He also recommended that West Covina consider the ordinances created for the cities of Calabasas and Rancho Palos Verdes.

Chairman Redholtz closed the public hearing.

There was a lengthy discussion between the Planning Commission and City Attorney Barron Bettenhauser regarding past court rulings, acceptable design guidelines for small wireless telecommunications facilities and the results of the survey of surrounding cities. In addition, there was a discussion by the Commission regarding design guidelines being too restrictive. Ms. Burns told the Commission that design guidelines would be considered once the subject ordinance was adopted.

During this discussion the Commission also considered undergrounding of the equipment for small wireless facilities, restrictions on distance between small wireless facilities, and

requiring the facilities to be of a certain size to improve the aesthetic appeal of their appearance. The Commission also considered the court ruling regarding environmental concerns.

Community Development Director Jeff Anderson also commented on the process the draft Code would establish to review and approve applications for small wireless facilities and when review by the Planning Commission would be required. Commissioner Heng expressed her preference that applications for small wireless facilities in the public right-of-way require review on a case-by-case basis. She also asked that guidelines be considered so that the Planning Commission could present the entire ordinance to the City Council for their consideration at the same time.

Motion by Kennedy, seconded by Jaquez, to waive further reading and adopt Resolution No. 20-6018, recommending to the City Council, adoption of Code Amendment No. 16-03. Motion carried 4-1 (Heng opposed.)

3. PRECISE PLAN NO. 19-02
TENTATIVE TRACT MAP NO. 082855
CATEGORICAL EXEMPTION
APPLICANT: David Cook – WC Homes LLC
LOCATION: 1611 & 1623 San Bernardino Road
REQUEST: The applicant is requesting approval of a precise plan and tentative tract map to construct a 105,645-square foot, 24-unit, two-story industrial condominium development located on an existing 4.55-acre lot in the M-1 Zone. The Precise Plan is for the development and architecture of the project site. The Tentative Parcel Map is to subdivide the site into industrial condominium air space lots and a wireless telecommunications site.

Planning Manager Jo-Anne Burns presented the staff report. During her presentation she said a portion of the property would be dedicated to the city for right-of-way purposes. She also reviewed the proposed development and the architectural features. In addition, she told the Commission that a monopine telecommunications facility would remain on the property. Also, Ms. Burns spoke about the environmental review and Categorical Exemption. She said the Environmental Review was conducted by Rincon and Greg Martin, representing Rincon, was present to answer any questions. Staff recommended approval of the request. There was a short discussion by the Commission regarding the elevations for Building Two. Chairman Redholtz expressed his concern that it would attract graffiti.

Chairman Redholtz opened the public hearing.

PROPONENT:

Craig Cook, applicant, said the project to the west of this project, was now completed and completely occupied. He also told the Commission that the experience with the development of that project had been applied to the project being considered tonight. He commented on various features of the proposed industrial condominium project, and working with Metrolink to comply with their requirements.



AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

DATE: May 5, 2020

TO: Mayor and City Council

FROM: David Carmany
City Manager

SUBJECT: CONSIDERATION OF CODE AMENDMENT NO. 20-02 - COMMERCIAL LAND USES AND STANDARDS

RECOMMENDATION:

The Planning Commission recommends that the City Council consider a Zoning Code Amendment as follows:

ORDINANCE NO. 2472 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING CODE AMENDMENT NO. 20-02, CODE AMENDMENT RELATED TO COMMERCIAL (NONRESIDENTIAL) USES AND STANDARDS

BACKGROUND:

On January 28, 2020, the Planning Commission initiated a code amendment regarding land uses that were not allowed in certain zones. Due to the popularity of online shopping, the amount of tenant space for retail has been curtailed leaving empty tenant spaces that were once utilized by retail uses. In addition, there has been a corresponding decrease in office space demand.

On February 25, 2020, a study session was held by the Planning Commission. At that time, staff presented two additional items to be added to the code amendment. At the conclusion of the study session, the Commission directed staff to prepare a code amendment to be presented at a public hearing.

On April 14, 2020, the Planning Commission held a public hearing and adopted Resolution No. 20-6031, recommending to the City Council approval of Code Amendment No. 20-02. At the conclusion of the hearing, the Planning Commission voted 3-0 (Holtz abstained, Heng absent) to recommend approval of the code amendment to the City Council.

DISCUSSION:

Staff has worked with the City Attorney's office to draft the proposed changes to the Code. The proposed code amendment would modify the land uses allowed in various nonresidential zones in the City, revise standards for screen walls in commercial areas (between parking areas and streets), revise the landscape standard in the M-1 zone, and revise the separation standard of Tattooing uses and residential uses.

The following are the changes to the land use matrix (WCMC Section 26-597).

1. Add Catering service as allowed use in the Office Professional Zone.
2. Add Delicatessens as allowed use in the Office Professional Zone

3. Add Ice Cream Stores as allowed use in the Office Professional Zone
4. Add Tutoring facility as allowed use in the Office Professional Zone
5. Add Indoor Recreation Facility with a conditional use permit in the Neighborhood Commercial and C-2 (Medium Commercial) Zone
6. Add Veterinary Hospital with a conditional use permit in the Office Professional Zone
7. Allow Postal Services as an allowed use in the Office Professional Zone and change from an administrative use permit to an allowed use in the Neighborhood Commercial Zone.
8. Deletion of the Incidental Retail Uses matrix (26-598.5) into the land use matrix including;
 - Move Coffee/Snack Shop as an allowed use in the Office Professional and Public Building Zones
 - Move Pharmacies and add an allowed use in all commercial zones and the Public Building Zone
 - Move Barber and Beauty Shops as an allowed use in the Office Professional and Public Building Zones

The proposed code amendment would also affect three standards in the Nonresidential section of the Code.

Currently, the Municipal Code (Section 26-575) requires that a 36-inch high block wall be constructed on the outside perimeter of all off-street parking areas that are visible from a public street. The intent of this standard was likely to screen automobile headlights at night or to provide screening into parking area. The proposed code amendment would revise the standard to require parking areas to be screened from public streets using means such as land contouring, low-profile walls, shrub plantings or similar screens or a combination. The new standard continues to provide screening but allows the applicant a variety of methods to achieve the screening.

The Municipal Code currently requires that a minimum of 8 percent of a property be landscaped in all nonresidential zones. This category includes the Manufacturing (M-1) Zone. In considering the type of development that occurs in the Manufacturing zone, there is generally less public access to the center and rear portions of a lot than there is in a commercial zone. Much of the landscaping often ends up at the middle or the back of the lot and may not be appreciated or maintained over time. The draft amendment has been prepared reducing that requirement to four (4) percent with at least 75% of the required landscaping being within 50 feet of a public street. This will led to development with visible landscaping that is more likely to be maintained over time.

Lastly, the Code requires that tattooing uses be separated by 300 feet from residential uses or zones. Tattooing uses are allowed in the Downtown area which abuts areas that are zoned residential but are improved with non-residential uses such as parking lots. The proposed code amendment has been prepared to require a separation from residential uses, but not from residential zones.

LEGAL REVIEW:

The City Attorney's Office has reviewed the proposed ordinance and approved it as to form.

OPTIONS:

The City Council has the following options:

1. Approve the Planning Commission's recommendation; or
2. Provide alternative direction

ENVIRONMENTAL REVIEW:

The proposal is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to activity that results in direct or reasonably foreseeable indirect physical change in the environment and for activity considered to be a project. The amendment to the West Covina Municipal Code would not result in a physical change in the environment because it would revise land use and development standards in nonresidential zones.

Prepared by: Rene Aguilar, Planning Assistant

Attachments

Attachment No. 1 - Ordinance No. 2472

Attachment No. 2 - Planning Commission Resolution No. 20-6031

Minutes 4.14.20

Attachment No. 4 - Staff Report 4.14.20

CITY COUNCIL GOALS & OBJECTIVES: Achieve Fiscal Sustainability and Financial Stability
Enhance the City Image and Effectiveness
Engage in Proactive Economic Development

ORDINANCE NO. 2472

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING CODE AMENDMENT NO. 20-02, CODE AMENDMENT RELATED TO COMMERCIAL (NONRESIDENTIAL) USES AND STANDARDS

WHEREAS, on the 28th day of January 2020, the Planning Commission initiated a code amendment related to related to commercial standards; and

WHEREAS, the Planning Commission, did on 25th day of February 2020, conduct a study session to consider the initiated code amendment; and

WHEREAS, the Planning Commission, upon giving the required notice, did on the 24th day of March 2020, conduct a duly advertised public hearing as prescribed by law; and

WHEREAS, the City Council, upon giving the required notice, did on the 23rd day of April, conduct a duly advertised public hearing as prescribed by law on the proposed ordinance; and

WHEREAS, based on review of the State CEQA Guidelines, the City Council finds and determines that the proposed ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment; and

WHEREAS, the City Council has duly considered all information presented to it, including written staff reports and any testimony provided at the public hearing, with all testimony received being made a part of the public record.

WHEREFORE, THE MAYOR AND THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY ORDAINS AS FOLLOWS:

SECTION NO. 1: Subsection (a) of Section 26-572 of Chapter 26, Article X, Division 3 of the West Covina Municipal Code is hereby amended to read as follows:

- (a) A minimum of eight (8) percent of the total net area (net area shall be computed by excluding public streets) of the development, **in all zone except the Manufacturing (M-1) zone**, shall be landscaped, and permanently watered with a water efficient automatic irrigation system. **In the Manufacturing (M-1) zone, a minimum of four (4) percent of the total net area (net area shall be computed by excluding public streets) of the development shall be landscaped, and permanently watered with a water efficient automatic irrigation system, and 75 percent of the landscaping shall be within 50 feet of a public street.**

Approximately one-half of such landscaped area shall be generally distributed throughout the parking lot with the remainder as planted areas around buildings, peripheral planters around the site, parkways, street tree wells and other locations as deemed appropriate by the planning director. The planning director shall also determine whether the type, size, and location of the proposed landscaping is appropriate given the scale and design of the development.

- (b) No planting area shall be less than twenty-four (24) square feet or less than three (3) feet in width (inside dimensions) with the exception of raised planter boxes around or in close proximity to buildings.
- (c) Parking lot trees.
 - (1) An average of at least one (1) tree (minimum fifteen (15) gallon) of a species satisfactory to the planning director shall be planted for every ten (10) single row parking stalls or every twenty (20) double row parking stalls within the parking lot in all zones.
 - (2) An average of at least one (1) tree (minimum fifteen (15) gallon) of a species satisfactory to the planning division shall be planted for every five (5) single row parking stalls.
- (d) Landscaping shall consist of combinations of trees, shrubs, and ground covers with careful consideration given to eventual size and spread, susceptibility to disease and pests, durability, drought tolerance and adaptability to existing soil and climatic conditions. A majority of plant material used through a development must be specimen-size material a combination of twenty-four (24) inch boxed, thirty-six (36) inch boxed, and fifteen (15) gallon trees and minimum five (5) gallon for shrubs.
- (e) Unused space resulting from the design or layout of parking spaces or accessory structures which is over twenty-four (24) square feet shall be landscaped.
- (f) All planted areas shall be surrounded by a concrete curb six (6) inches above final grade or above asphalt level of the parking lot. However, when such planted areas lie adjacent to a concrete sidewalk, masonry wall, or a building, a raised concrete curb need not be provided in the adjacent area.
- (g) A minimum of six (6) feet of either the rear or side yard adjacent to residential zoning or development shall be landscaped with specimen plant materials and trees appropriate in size and type to create a solid plant screen, subject to the approval of the planning director, and as represented on the approved landscaping plan.
- (h) Undeveloped areas proposed for future expansion shall be maintained in a weed free and dust free condition.
- (i) All landscaping referred to in this section shall be maintained in a neat orderly fashion and free of debris.
- (j) The landscaping and irrigation plan shall be approved by the planning director in compliance with the provisions of this division. Landscape and irrigation plans or projects with required landscaping consisting of two thousand five hundred (2,500) square feet or more, shall be prepared by a licensed landscape architect. The planning director has the right to disapprove a landscaping plan if the quantity, size, type, placement and use of plant material do not meet the minimum requirements of this division, Planning Commission Guidelines for Water Efficient Landscaping and Article XIV, Division 1.

- (k) All landscape areas and irrigations systems shall be subject to the water efficiency provisions contained in Division 1, of Article XIV of Chapter 26 of this Code, and the Planning Commission Guidelines for Water Efficient Landscaping, unless specifically exempted by those water efficiency provisions.

(Code 1960, § 10904.06; Ord. No. 1333, § 1, 4-25-77; Ord. No. 1912, § 1, 1-15-93; Ord. No. 2030, § 4, 4-20-99; Ord. No. 2204, § 3(Exh. A), 2-16-10; Ord. No. 2205, § 3(Exh. A), 4-6-2010)

SECTION NO. 2: Subsection (a) of Section 26-575 of Chapter 26, Article X, Division 3 of the West Covina Municipal Code is hereby amended to read as follows:

Section. 26-575. – Walls **and Screening**

- (a) **All parking areas shall be screened from public rights-of-way with various means of screening such as land contouring, low-profile walls, shrub plantings and similar screens or a combination thereof.** ~~A thirty six (36) inch high concrete, masonry, or decorative block wall shall be provided and maintained on the outside perimeter of all off street parking areas abutting or visible from a public street except at those points of ingress and egress for either vehicular or pedestrian traffic. The wall shall be set back a minimum of five (5) feet from the property line and this setback area shall be landscaped. Other materials may be used if approved by the planning commission.~~
~~In lieu of the thirty six (36) inch high screen wall, land contouring and landscaping equivalent to thirty six (36) inches in height, or a combination of wall and land contouring, may be provided if approved by the planning commission.~~
- (b) A six (6) foot high concrete, masonry or decorative block wall shall be provided and maintained on the boundary of any nonresidential zone which abuts or lies across a public street or alley from a residential zone except in the front setback area where said wall shall be thirty-six (36) inches high.
- (c) The height of all walls shall be measured from the highest finished grade within the required adjacent setback.
- (d) All walls shall be architecturally compatible with main buildings. Type, texture, and color shall be approved by the planning commission. Barbed wire shall not be permitted.

(Code 1960, § 10904.09; Ord. No. 1333, § 1, 4-25-77; Ord. No. 2030, § 4, 4-20-99; Ord. No. 2204, § 3(Exh. A), 2-16-10)

SECTION NO. 3: Section 26-597 of Chapter 26, Article XI of the West Covina Municipal Code is hereby amended to read as follows:

The following revisions to the Land Uses shall be inserted alphabetically into the list of use.

Incidental Retail Use	P	C	C	C	2	3	1	P	B	S
Coffee/snack shop	*							*	*	
Pharmacies, including the sale of related patent medicines and notions	*						*	*	*	
Barber and beauty shops	*							*		

~~(Ord. No. 1976, § 2, 8-20-96; Ord. No. 2030, § 4, 4-20-99; Ord. No. 2204, § 3(Exh. A), 2-16-10)~~

SECTION NO. 5: Section 26-685.7200 of Chapter 26, Article XII, Division 24 of the West Covina Municipal Code is hereby amended to read as follows:

The practice of tattooing shall be subject to and comply with the following standards and regulations:

- (1) Tattooing uses may only be established in the "R-C" and "M-1" Zones.
- (2) A conditional use permit shall be obtained prior to establishing a tattooing use (as specified in section 26-246).
- (3) Tattooing uses may only be established in a tenant space with a minimum of one thousand (1,000) square feet of gross floor area.
- (4) Tattooing uses shall be located a minimum of three hundred (300) feet from a residential ~~zone~~ or use, religious facility, public parks, or educational institution which is utilized by minors.
- (5) Tattooing uses shall be located more than one thousand five hundred (1,500) feet from the perimeter of the tenant space of any other tattooing use.
- (6) Tattooing uses shall not operate between the hours of 10:00 p.m. and 10:00 a.m.
- (7) Temporary or mobile tattooing uses or events are not allowed by this section.
- (8) The parking requirement for a tattooing use shall be consistent with standards for personal service business. Accessory use tattooing shall comply with the parking requirements for the primary use.
- (9) The tattooing use shall comply with the Los Angeles County Code Title 11, Chapter 11.36, Body Art Establishments.
- (10) A business license as required by Chapter 14 of the West Covina Municipal Code shall be obtained prior to the start of the operation of the use.
- (11) The planning commission may impose other conditions deemed necessary to reasonably relate to the purpose of this division.

SECTION NO. 6: That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published as required by law.

SECTION NO. 7: This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage.

PASSED, APPROVED AND ADOPTED this _____.

Tony Wu
Mayor

APPROVED AS TO FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, Assistant City Clerk, of the City of West Covina, custodian of the original records, which are public records which I maintain custody and control for the City of West Covina do hereby certify the foregoing Ordinance, being Ordinance No. ____ as passed by the City Council of the City of West Covina, signed by the Mayor of said Council, and attested by the Assistant City Clerk, at a regular meeting of the City Council held on the 5th day of May 2020, and that the same was passed by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINED:

Lisa Sherrick
Assistant City Clerk

**PLANNING COMMISSION
RESOLUTION NO. 20-6031**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
WEST COVINA, CALIFORNIA, RECOMMENDING TO THE CITY
COUNCIL APPROVAL OF CODE AMENDMENT NO. 20-02, CODE
AMENDMENT RELATED TO COMMERCIAL (NONRESIDENTIAL)
USES AND STANDARDS**

CODE AMENDMENT NO. 20-02

GENERAL EXEMPTION

APPLICANT: City of West Covina

LOCATION: Citywide

WHEREAS, on the 28th day of January 2020, the Planning Commission initiated a code amendment related to commercial standards; and

WHEREAS, the Planning Commission, did on 25th day of February 2020, conduct a study session to consider the initiated code amendment; and

WHEREAS, the Planning Commission, upon giving the required notice, did on the 24th day of March 2020, conduct a duly advertised public hearing as prescribed by law; and

WHEREAS, studies and investigations made by this Commission and on its behalf reveal the following facts:

1. The land use matrix has not been amended comprehensively since 2010 with the processing of Code Amendment No. 08-01.
2. The City should periodically review land use standards to determine if the current review process is appropriate.
3. It is appropriate to review the standards for screen walls, landscaping requirements in the M-1 zone and separation requirements for Tattooing uses to determine if the existing standards are appropriate.
4. The proposed action is considered to be exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA

Guidelines, in that the proposed action consists of a code amendment, which does not have the potential for causing a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of West Covina as follows:

SECTION NO. 1: The above recitals are true and correct and are incorporated herein as if set forth herein in full.

SECTION NO. 2: Based on the evidence presented and the findings set forth, Code Amendment No. 20-02 is hereby found to be consistent with the West Covina General Plan and the implementation thereof, and that the public necessity, convenience, general welfare, and good zoning practices require Code Amendment No. 20-02.

SECTION NO. 3: Based on the evidence presented and the findings set forth, the Planning Commission of the City of West Covina hereby recommends to the City Council of the City of West Covina that it approves Code Amendment No. 20-02 to amend Chapter 26 (Zoning) of the West Covina Municipal Code as shown on Exhibit "A."

SECTION NO. 4: The Secretary is instructed to forward a copy of this Resolution to the City Council for their attention in the manner as prescribed by law and this Resolution shall go into force and effect upon its adoption.

[continued on next page]

I HEREBY CERTIFY, that the foregoing Resolution was adopted by the Planning Commission of the City of West Covina, at a regular meeting held on the 14th day of April, 2020, by the following vote.

AYES:

NOES:

ABSTAIN:

ABSENT:

DATE: April 14, 2020

Herb Redholtz, Chairman
Planning Commission

Jeff Anderson, Secretary
Planning Commission

EXHIBIT A

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING CODE AMENDMENT NO. 20-02, CODE AMENDMENT RELATED TO COMMERCIAL (NONRESIDENTIAL) USES AND STANDARDS

WHEREAS, on the 28th day of January 2020, the Planning Commission initiated a code amendment related to related to commercial standards; and

WHEREAS, the Planning Commission, did on 25th day of February 2020, conduct a study session to consider the initiated code amendment; and

WHEREAS, the Planning Commission, upon giving the required notice, did on the 24th day of March 2020, conduct a duly advertised public hearing as prescribed by law; and

WHEREAS, the City Council, upon giving the required notice, did on the __ day of _____, conduct a duly advertised public hearing as prescribed by law on the proposed ordinance; and

WHEREAS, based on review of the State CEQA Guidelines, the City Council finds and determines that the proposed ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment; and

WHEREAS, the City Council has duly considered all information presented to it, including written staff reports and any testimony provided at the public hearing, with all testimony received being made a part of the public record.

WHEREFORE, THE MAYOR AND THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY ORDAINS AS FOLLOWS:

SECTION NO. 1: Subsection (a) of Section 26-572 of Chapter 26, Article X, Division 3 of the West Covina Municipal Code is hereby amended to read as follows:

- (a) A minimum of eight (8) percent of the total net area (net area shall be computed by excluding public streets) of the development, **in all zone except the Manufacturing (M-1) zone**, shall

be landscaped, and permanently watered with a water efficient automatic irrigation system. **In the Manufacturing (M-1) zone, a minimum of four (4) percent of the total net area (net area shall be computed by excluding public streets) of the development shall be landscaped, and permanently watered with a water efficient automatic irrigation system, and 75 percent of the landscaping shall be within 50 feet of a public street.**

Approximately one-half of such landscaped area shall be generally distributed throughout the parking lot with the remainder as planted areas around buildings, peripheral planters around the site, parkways, street tree wells and other locations as deemed appropriate by the planning director. The planning director shall also determine whether the type, size, and location of the proposed landscaping is appropriate given the scale and design of the development.

- (b) No planting area shall be less than twenty-four (24) square feet or less than three (3) feet in width (inside dimensions) with the exception of raised planter boxes around or in close proximity to buildings.
- (c) Parking lot trees.
 - (1) An average of at least one (1) tree (minimum fifteen (15) gallon) of a species satisfactory to the planning director shall be planted for every ten (10) single row parking stalls or every twenty (20) double row parking stalls within the parking lot in all zones.
 - (2) An average of at least one (1) tree (minimum fifteen (15) gallon) of a species satisfactory to the planning division shall be planted for every five (5) single row parking stalls.
- (d) Landscaping shall consist of combinations of trees, shrubs, and ground covers with careful consideration given to eventual size and spread, susceptibility to disease and pests, durability, drought tolerance and adaptability to existing soil and climatic conditions. A majority of plant material used through a development must be specimen-size material a combination of twenty-four (24) inch boxed, thirty-six (36) inch boxed, and fifteen (15) gallon trees and minimum five (5) gallon for shrubs.
- (e) Unused space resulting from the design or layout of parking spaces or accessory structures which is over twenty-four (24) square feet shall be landscaped.
- (f) All planted areas shall be surrounded by a concrete curb six (6) inches above final grade or above asphalt level of the parking lot. However, when such planted areas lie adjacent to a concrete sidewalk, masonry wall, or a building, a raised concrete curb need not be provided in the adjacent area.
- (g) A minimum of six (6) feet of either the rear or side yard adjacent to residential zoning or development shall be landscaped with specimen plant materials and trees appropriate in size and type to create a solid plant screen, subject to the approval of the planning director, and as represented on the approved landscaping plan.
- (h) Undeveloped areas proposed for future expansion shall be maintained in a weed free and dust free condition.
- (i) All landscaping referred to in this section shall be maintained in a neat orderly fashion and free of debris.

- (j) The landscaping and irrigation plan shall be approved by the planning director in compliance with the provisions of this division. Landscape and irrigation plans or projects with required landscaping consisting of two thousand five hundred (2,500) square feet or more, shall be prepared by a licensed landscape architect. The planning director has the right to disapprove a landscaping plan if the quantity, size, type, placement and use of plant material do not meet the minimum requirements of this division, Planning Commission Guidelines for Water Efficient Landscaping and Article XIV, Division 1.
- (k) All landscape areas and irrigations systems shall be subject to the water efficiency provisions contained in Division 1, of Article XIV of Chapter 26 of this Code, and the Planning Commission Guidelines for Water Efficient Landscaping, unless specifically exempted by those water efficiency provisions.

(Code 1960, § 10904.06; Ord. No. 1333, § 1, 4-25-77; Ord. No. 1912, § 1, 1-15-93; Ord. No. 2030, § 4, 4-20-99; Ord. No. 2204, § 3(Exh. A), 2-16-10; Ord. No. 2205, § 3(Exh. A), 4-6-2010)

SECTION NO. 2: Subsection (a) of Section 26-575 of Chapter 26, Article X, Division 3 of the West Covina Municipal Code is hereby amended to read as follows:

Section. 26-575. – Walls **and Screening**

- (a) **All parking areas shall be screened from public rights-of-way with various means of screening such as land contouring, low-profile walls, shrub plantings and similar screens or a combination thereof.** ~~A thirty six (36) inch high concrete, masonry, or decorative block wall shall be provided and maintained on the outside perimeter of all off street parking areas abutting or visible from a public street except at those points of ingress and egress for either vehicular or pedestrian traffic. The wall shall be set back a minimum of five (5) feet from the property line and this setback area shall be landscaped. Other materials may be used if approved by the planning commission.
In lieu of the thirty six (36) inch high screen wall, land contouring and landscaping equivalent to thirty six (36) inches in height, or a combination of wall and land contouring, may be provided if approved by the planning commission.~~
- (b) A six (6) foot high concrete, masonry or decorative block wall shall be provided and maintained on the boundary of any nonresidential zone which abuts or lies across a public street or alley from a residential zone except in the front setback area where said wall shall be thirty-six (36) inches high.
- (c) The height of all walls shall be measured from the highest finished grade within the required adjacent setback.
- (d) All walls shall be architecturally compatible with main buildings. Type, texture, and color shall be approved by the planning commission. Barbed wire shall not be permitted.

(Code 1960, § 10904.09; Ord. No. 1333, § 1, 4-25-77; Ord. No. 2030, § 4, 4-20-99; Ord. No. 2204, § 3(Exh. A), 2-16-10)

SECTION NO. 3: Section 26-597 of Chapter 26, Article XI of the West Covina Municipal Code is hereby amended to read as follows:

The following revisions to the Land Uses shall be inserted alphabetically into the list of use.

		M	M	M	M												
	R	R	F	F	F	F	O	N	R	S	C	C	M	I		P	O
	A	1	8	15	20	45	P	C	C	C	2	3	1	P		B	S
Barber and beauty shops							<u>x</u>	x	x	x	x	x	x		—		
<u>Catering service</u>							<u>x</u>	x	x	x	x	x	x		—		
<u>Coffee/snack shop</u>							<u>x</u>										<u>x</u>
Delicatessens							<u>x</u>	x	x	x	x	x	x		—		
Ice Cream Stores							<u>x</u>	x	x	x	x	x	x		—		
Indoor recreation facilities								<u>c</u>	c	c	<u>c</u>	c					
<u>Pharmacies</u>							<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>					<u>x</u>
Postal services							<u>x</u>	<u>ax</u>	x	x	x	x	x				
Tutoring facility							<u>c</u>	c	c	c	c	c	c				
Veterinary Hospital							<u>c</u>	c	c	c	c	c	x	c			

SECTION NO. 4: Section 26-598.5 of Chapter 26, Article XI 3 of the West Covina Municipal Code is hereby deleted:

~~Sec. 26-598.5. – Incidental retail uses allowed in non-retail uses.~~

~~The following retail uses are permitted in the following zones, provided the use is designed as an integral and incidental part of the building, no exterior advertising for the retail use is provided, and the total combined square footage of such uses does not exceed fifteen (15) percent of the gross floor area of the building:~~

	O	N	R	S	C	C	M	I	P	O
Incidental Retail Use	P	C	C	C	2	3	1	P	B	S
Coffee/snack shop	*							*	*	
Pharmacies, including the sale of related patent medicines and notions	*						*	*	*	
Barber and beauty shops	*							*		

~~(Ord. No. 1976, § 2, 8-20-96; Ord. No. 2030, § 4, 4-20-99; Ord. No. 2204, § 3(Exh. A), 2-16-10)~~

SECTION NO. 5: Section 26-685.7200 of Chapter 26, Article XII, Division 24 of the West Covina Municipal Code is hereby amended to read as follows:

The practice of tattooing shall be subject to and comply with the following standards and regulations:

- (1) Tattooing uses may only be established in the "R-C" and "M-1" Zones.
- (2) A conditional use permit shall be obtained prior to establishing a tattooing use (as specified in section 26-246).
- (3) Tattooing uses may only be established in a tenant space with a minimum of one thousand (1,000) square feet of gross floor area.
- (4) Tattooing uses shall be located a minimum of three hundred (300) feet from a residential ~~zone~~ or use, religious facility, public parks, or educational institution which is utilized by minors.
- (5) Tattooing uses shall be located more than one thousand five hundred (1,500) feet from the perimeter of the tenant space of any other tattooing use.
- (6) Tattooing uses shall not operate between the hours of 10:00 p.m. and 10:00 a.m.
- (7) Temporary or mobile tattooing uses or events are not allowed by this section.
- (8) The parking requirement for a tattooing use shall be consistent with standards for personal service business. Accessory use tattooing shall comply with the parking requirements for the primary use.
- (9) The tattooing use shall comply with the Los Angeles County Code Title 11, Chapter 11.36, Body Art Establishments.
- (10) A business license as required by Chapter 14 of the West Covina Municipal Code shall be obtained prior to the start of the operation of the use.

(11) The planning commission may impose other conditions deemed necessary to reasonably relate to the purpose of this division.

SECTION NO. 6: That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published as required by law.

SECTION NO. 7: This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage.

PASSED, APPROVED AND ADOPTED this _____.

Tony Wu
Mayor

APPROVED AS TO FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, Assistant City Clerk, of the City of West Covina, custodian of the original records, which are public records which I maintain custody and control for the City of West Covina do hereby certify the foregoing Ordinance, being Ordinance No. ____ as passed by the City Council of the City of West Covina, signed by the Mayor of said Council, and attested by the Assistant City Clerk, at a regular meeting of the City Council held on the _____, and that the same was passed by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINED:

Lisa Sherrick
Assistant City Clerk

A G E N D A

DATE: April 28, 2020

ITEM NO.: 1

**MINUTES
REGULAR MEETING OF THE PLANNING COMMISSION
CITY OF WEST COVINA
Tuesday, April 14, 2020**

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the West Covina Council Chambers. The Commission observed a moment of silent prayer/meditation and Chairman Redholtz lead the Pledge of Allegiance.

ROLL CALL

Present: Holtz, Jaquez, Kennedy and Redholtz

Absent: Heng

City Staff Present: Anderson, Sherrick, Burns and Martinez

APPROVAL OF MINUTES:

1. Regular meeting, March 10, 2020

The minutes were approved as presented.

OTHER MATTERS OR ORAL COMMUNICATIONS

None

PUBLIC HEARINGS

2. CODE AMENDMENT NO. 20-02
GENERAL EXEMPTION

LOCATION: Citywide

REQUEST: The proposed code amendment consists of certain amendments to the Zoning section of the West Covina Municipal Code to modify commercial (nonresidential) uses and standards.

Community Development Director Jeff Anderson presented the staff report. During his presentation he told the Commission the code amendment had been initiated by the Commission on January 28, 2020. A study session had been held on February 25, 2020 and at the conclusion of the study session staff had been directed to prepare a code amendment for consideration by the Planning Commission at a public hearing.

Mr. Anderson also reviewed the changes to the allowed uses in the Land Use Matrix for the Commission.

Commissioner Jaquez asked if there is a policy in place regarding Stormwater Urban Run-off Pollution Control. He also requested that language addressing this policy be incorporated into the code amendment. Commissioner Kennedy concurred with Commissioner Jaquez. There was a short discussion regarding the review of land uses, and engineering's review of land use cases.

Chairman Redholtz opened the public hearing.

There were no requests to speak on this matter.

Chairman Redholtz closed the public hearing.

There was a discussion regarding Commissioner Jaquez's request to incorporate language into the Code Amendment to address this issue. Chairman Redholtz asked for staff's recommendation regarding this matter. The Commission concurred that Code Amendment No. 20-02, be adopted as amended.

Motion by Jaquez, seconded by Kennedy, to adopt Resolution No. 20-6031, recommending approval of Code Amendment No. 20-02, as amended. Motion carried 3-1. (Holtz abstained, Heng absent.)

Chairman Redholtz said final action on this matter will take place at a public hearing before the City Council on a date to be determined.

NON-HEARING ITEMS

3. STUDY SESSION – DESIGN REVIEW SUBCOMMITTEE GUIDELINES

Community Development Director Jeff Anderson presented the staff report. During his presentation he reviewed the proposed guidelines for single-story and two-story homes. The proposed changes were incorporated into the Guidelines and provided to the Commission for their information.

Chairman Redholtz asked if there were any objections by the Commission. None of the Commissioners objected.

4. GENERAL PLAN ANNUAL REPORT FOR 2019

This report is an annual report required by State law for the progress of the General Plan. The report was presented to the City Council on March 17, 2020. The Housing Element report has been sent to the Department of Housing and Community Development and the General Plan report has been sent to the State Office of Planning and Research.

The report is provided to the Planning Commission to inform the Commission of the data in the reports. No action is required.

Community Development Director Jeff Anderson presented the staff report. During his presentation he answered questions by Commissioner Jaquez regarding possible consequences if West Covina doesn't meet the required number of housing units in all the income brackets. There was also a discussion regarding proposed projects in the City and how the loss of redevelopment agencies affected the construction of housing projects for all California cities. The Commission also discussed the State's desire to encourage high density housing projects.

The reports were received and filed.

COMMISSION REPORTS/COMMENTS AND MISCELLANEOUS ITEMS

None

5. COMMUNITY DEVELOPMENT DIRECTOR'S REPORT:

a. Forthcoming – April 28, 2020

Community Development Director Jeff Anderson told the Commission there would be a meeting scheduled for April 28, 2020 and it will be held under the same format as tonight's meeting.

b. Project Status Report – April 14, 2020

6. CITY COUNCIL ACTION:

None

ADJOURNMENT

Chairman Redholtz adjourned the meeting at 7:49 p.m.

Respectfully submitted:

Lydia de Zara
Senior Administrative Assistant

ADOPTED AS SUBMITTED ON: April 28, 2020

AGENDA

ITEM NO. 2.

DATE: April 14, 2020

PLANNING DEPARTMENT STAFF REPORT

SUBJECT

CODE AMENDMENT NO. 20-02

GENERAL EXEMPTION

LOCATION: Citywide

REQUEST: The proposed code amendment consists of certain amendments to the Zoning section of the West Covina Municipal Code to modify commercial (nonresidential) uses and standards.

BACKGROUND

The Planning Commission initiated a code amendment on January 28, 2020 at the request of staff. Over the past year, staff has noted requests for land uses that were not allowed in certain zones. Due to the popularity of online shopping, the amount tenant space for retail has been curtailed leaving empty tenant spaces that were once utilized by retail uses. At the time that the code amendment was initiated, staff presented recommended revisions to the Code.

A study session was held by the Planning Commission on February 25, 2020. At that time, staff presented two additional items to be added to the code amendment. At the conclusion of the study session, the Commission directed staff to prepare a code amendment to be presented at a public hearing.

DISCUSSION

Staff has worked with the City Attorney's office to draft the proposed changes to the Code. The proposed code amendment would modify the land uses allowed in various nonresidential zones in the City, revise standards for screen walls in commercial areas (between parking areas and streets), revise the landscape standard in the M-1 zone, and revise the separation standard of Tattooing uses and residential uses.

The following are the changes to the land use matrix (WCMC Section 26-597).

1. Add Catering service as allowed use in the Office Professional Zone.
2. Add Delicatessens as allowed use in the Office Professional Zone
3. Add Ice Cream Stores as allowed use in the Office Professional Zone

ATTACHMENT NO. 4

4. Add Tutoring facility as allowed use in the Office Professional Zone
5. Add Indoor Recreation Facility with a conditional use permit in the Neighborhood Commercial and C-2 (Medium Commercial) Zone
6. Add Veterinary Hospital with a conditional use permit in the Office Professional Zone
7. Allow Postal Services as an allowed use in the Office Professional Zone and change from an administrative use permit to an allowed use in the Neighborhood Commercial Zone.
8. Deletion of the Incidental Retail Uses matrix (26-598.5) into the land use matrix including;
 - Move Coffee/Snack Shop as an allowed use in the Office Professional and Public Building Zones
 - Move Pharmacies and add an allowed use in all commercial zones and the Public Building Zone
 - Move Barber and Beauty Shops as an allowed use in the Office Professional and Public Building Zones

Currently, the Municipal Code (Section 26-575) requires that a 36-inch high block wall be constructed on the outside perimeter of all off-street parking areas that are visible from a public street. The intent of this standard was likely to screen automobile headlights at night or to provide screening into parking area. The proposed code amendment would revise the standard to require parking areas to be screened from public streets using means such as land contouring, low-profile walls, shrub plantings or similar screens or a combination. The new standard continues to provide screening but allows the applicant a variety of methods to achieve the screening.

The Municipal Code currently requires that a minimum of 8 percent of a property be landscaped in all nonresidential zones. This category includes the Manufacturing (M-1) Zone. In considering the type of development that occurs in the Manufacturing zone, there is generally less public access to the center and rear portions of a lot than there is in a commercial zone. Much of the landscaping often ends up at the middle or the back of the lot and may not be appreciated or maintained over time. The draft amendment has been prepared reducing that requirement to four (4) percent with at least 75% of that landscaping being within 50 feet of a public street. This will led to development with visible landscaping that is more likely to be maintained over time.

The Code currently requires that tattooing uses be separated by 300 feet from residential uses or zones. Tattooing uses are allowed in the Downtown area which abuts areas that are zoned residential but are improved with non-residential uses such as parking lots. The proposed code amendment has been prepared to require a separation from residential uses, but not from residential zones.

The proposed amendment has been drafted and the code text is attached to the resolution

ATTACHMENT NO. 4

for your review (Attachment No. 1). If the Planning Commission chooses to recommend approval of the proposed code amendment, the City Council will hold a public hearing to consider adopting the proposed amendments.

ENVIRONMENTAL DETERMINATION

The proposal is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to activity that results in direct or reasonably foreseeable indirect physical change in the environment and for activity considered to be a project. The amendment to the West Covina Municipal Code would not result in a physical change in the environment because it would revise land use and development standards in nonresidential zones.

STAFF RECOMMENDATIONS

Based on direction, staff recommends that the Planning Commission adopt a resolution recommending approval of Code Amendment No. 20-02 to the City Council.

Submitted by: Jeff Anderson, Community Development Director

ATTACHMENTS:

Attachment No. 1 - Resolution
Attachment No. 2 - Staff Report 2.25.20
Attachment No. 3 - Staff Report 2.25.20
