

# AGENDA

ALISO VIEJO CITY COUNCIL  
WEDNESDAY, SEPTEMBER 07, 2022  
6:00 PM CLOSED SESSION  
7:00 PM REGULAR MEETING  
*FOLLOWED BY PUBLIC FACILITIES CORPORATION MEETING\**

City Hall  
Council Chambers  
12 Journey  
Aliso Viejo, Ca



**Mayor Ross Chun**  
**Mayor Pro Tem Richard W. Hurt**  
**Councilmember Tiffany Ackley**  
**Councilmember David C. Harrington**  
**Councilmember Mike Munzing**

## **SPECIAL NOTICE REGARDING COVID-19**

On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19. On September 16, 2021, Assembly Bill 361 (AB 361) was signed by Governor Newsom, to allow for the City Council to attend City Council meetings telephonically and for the public to participate in the City Council meeting by electronic means.

Given the health risks associated with COVID-19, state and local officials are recommending measures to promote social distancing; therefore, the City of Aliso Viejo will not have the Council Chambers open to the public for this meeting. Members of the public may access the meeting live using any of the following sources:

- Cox Communications Channel 851
- AT&T U-Verse Channel 99
- Online at [www.avcity.org/agendas](http://www.avcity.org/agendas)
- Online via GoToWebinar at <https://attendee.gotowebinar.com/register/3269013421609753613>

Public comments may be submitted by calling (949) 425-2509 to leave a recorded message by 4:00 pm on the day of the meeting or via email to [Community-Input@avcity.org](mailto:Community-Input@avcity.org). Alternatively, public comments may be submitted by logging onto the meeting through this link and using the "Raise Hand" feature: <https://attendee.gotowebinar.com/register/3269013421609753613>. Comments are limited to three minutes each.

WELCOME to the City of Aliso Viejo City Council meeting.

It is the City's intention to comply with the Americans with Disabilities Act (ADA). If you need special assistance to participate in the meeting, the City will make reasonable arrangements to ensure accessibility and/or accommodations. [28 CFR 35.102-35.104 ADA Title II] Please contact the City Clerk's Office at (949) 425-2505 at least 48 hours prior to the meeting.

Regular meetings of the City Council are held on the first and third Wednesday of the month at the City Hall Council Chambers, 12 Journey, Aliso Viejo. Copies of the agenda are available in the lobby at City Hall on the Thursday preceding a regularly scheduled City Council meeting. All communications received by the City regarding an agenda item have been included in the agenda materials. Supplemental documents relating to specific agenda items, including communications received after agenda delivery, are presented at the dais and in the Public Copy agenda binder at the time of the meeting. Supplemental documents are also available for review in the City Clerk's office, 12 Journey, Aliso Viejo. For more information, please contact City Hall at (949) 425-2505.

This meeting will be broadcast live on Cox Communications Channel 851, AT&T U-Verse Channel 99 and the City's website. By attending the City Council Meeting, you are giving your permission to be televised. The Council Meetings are rebroadcast on Wednesday at 7:00 p.m. on Cox Communications Channel 851, AT&T U-Verse Channel 99, and can be viewed on the internet at [www.avcity.org](http://www.avcity.org).

DAVID A. DOYLE  
CITY MANAGER

SCOTT C. SMITH  
CITY ATTORNEY

MITZI ORTIZ  
CITY CLERK

**PLEASE SILENCE ALL CELL PHONES AND OTHER  
ELECTRONIC EQUIPMENT WHILE CITY COUNCIL IS IN SESSION**

**CALL TO ORDER: CONVENE SPECIAL MEETING**

**PUBLIC COMMENTS:**

**CLOSED SESSION:**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

**Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)**

**Number of potential cases: 2**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

**Pursuant to Government Code Section 54957**

**Title: City Manager**

**CONFERENCE WITH LABOR NEGOTIATORS**

**Pursuant to Government Code section 54957.6**

**Agency designated representatives: Mayor and Mayor Pro Tem**

**Unrepresented employee: City Manager**

**CALL TO ORDER: CONVENE REGULAR MEETING**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE:**

**REPORT FROM CLOSED SESSION:**

**1. SPECIAL PRESENTATIONS:**

1.1. PROCLAMATION - NATIONAL PREPAREDNESS MONTH

[Proclamation](#)

1.2. PRESENTATION BY FAMILIES FORWARD

**2. ADDITIONS, DELETIONS, REORDERING TO THE AGENDA:**

**3. COMMUNITY INPUT:**

Members of the public wishing to address the City Council can submit public comments by calling (949) 425-2509 to leave a recorded by 4:00 pm on the day of the meeting or via email to [Community-Input@avcity.org](mailto:Community-Input@avcity.org). Written comments will be read into the record and recorded messages will be aired during the meeting. Alternatively, public comments may be submitted by logging onto the meeting through this link and using the "Raise Hand" feature: <https://attendee.gotowebinar.com/register/3269013421609753613>. Comments are limited to three (3) minutes each. In compliance with the Brown Act, no discussion or action may be taken on comments received at this time, except the City Council may briefly respond to statements made or questions posed.

**4. CONSENT CALENDAR:**

All matters listed on the Consent Calendar will be acted upon by one vote unless members of the City Council, or staff request a matter to be discussed and/or removed from the Consent Calendar for separate action. Items removed from the Consent Calendar will be discussed and voted upon immediately following City Council action on the remainder of the Consent Calendar.

4.1. WAIVE THE READING OF ALL ORDINANCES AND RESOLUTIONS

**Recommended Action:** Approve the reading by title only of all ordinances and resolutions wherein the titles appear on the public agenda; said titles shall be determined to have been read by title, and further reading is waived.

4.2. RESOLUTION EXTENSION AUTHORIZING VIRTUAL CITY COUNCIL MEETINGS PURSUANT TO ASSEMBLY BILL 361

**Recommended Action:** Move to reconfirm findings under Assembly Bill 361 and extend Resolution No. 2021-27 to continue virtual City Council meetings.

[Staff Report](#)

[Attachment 1 - Resolution No. 2021-27](#)

4.3. APPROVAL OF MINUTES

**Recommended Action:** Approve the Minutes as submitted for the August 17, 2022 Special Meeting and the August 17, 2022 Regular Meeting.

[Draft Minutes - August 17, 2022 Special Meeting](#)

[Draft Minutes - August 17, 2022 Regular Meeting](#)

4.4. ACCOUNTS PAYABLE

**Recommended Action:**

1. Ratify accounts payable checks and electronic funds transfers issued August 11, 2022, in the amount of \$808,902.23; and
2. Ratify accounts payable checks and electronic funds transfers issued August 18, 2022, in the amount of \$482,874.53.

[Staff Report](#)

[Attachment 1 - Accounts Payable Report](#)

4.5. TREASURER'S STATEMENT – JULY 2022

**Recommended Action:** Approve July 2022 Treasurer's Statement

[Staff Report](#)

[Attachment 1 - Jul'22 Treasurer's Report](#)

4.6. INVESTMENT POLICY FOR FISCAL YEAR 2022-23

**Recommended Action:** Adopt a Resolution approving the Investment Policy for Fiscal Year 2022-23 and rescinding Resolution No. 2021-23 in its entirety.

[Staff Report](#)

[Attachment 1 - Resolution](#)

[Attachment 2 - FY 2022-23 Investment Policy](#)

[Attachment 3 - FY 2022-23 Investment Policy \(Redlined\)](#)

[Attachment 4 - Resolution No. 2021-23](#)

4.7. FIRST AMENDMENT TO THE AGREEMENT FOR SOLID WASTE CONSULTING SERVICES

**Recommended Action:**

1. Approve a First Amendment to the Agreement with HF&H Consultants, LLC for Solid Waste Consulting Services to extend the term for two (2) years and to increase the agreement amount by \$50,000 for a total agreement amount of \$100,000;
2. Authorize the City Manager to approve additional funding to the agreement in an amount not to exceed \$15,000, if necessary; and
3. Authorize the City Manager to execute the First Amendment to the Agreement.

[Staff Report](#)

[Attachment 1 - Agreement Amendment](#)

4.8. FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT WITH LYON'S SECURITY SERVICE, INC. FOR FACILITY RESERVATION SECURITY SERVICES HELD AT ALISO VIEJO RANCH

**Recommended Action:** Approve and authorize the City Manager to execute the First Amendment to the Professional Services Agreement with Lyon's Security Service, Inc. for facility reservation security services held at Aliso Viejo Ranch to extend the term for three years and amend the compensation rates.

[Staff Report](#)

[Attachment 1 - Agreement Amendment](#)

4.9. PROPERTY ACQUISITION – 38 COLONIAL WAY

**Recommended Action:**

1. Approve the purchase and sale agreement for 38 Colonial Way, Aliso Viejo, CA 92656 in the amount of \$227,000 and direct the City Manager to take all necessary steps to close escrow and complete the purchase of the property;
2. Find that the purchase of the property is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Sections 15301 (Existing Facilities);
3. Authorize the appropriation of Development Impact funds in the amount \$95,076 to the Fiscal Year 2022-23 Budget for the purchase; and
4. Find that the purchase of the property is in conformance with the City's General Plan Confirms with the General Plan.

[Staff Report](#)

[Attachment 1 - Purchase Agreement](#)

4.10. RESOLUTION AMENDING CITY EMPLOYEE SALARY SCHEDULE FOR IT ANALYST POSITION

**Recommended Action:** Adopt a Resolution amending employee salary schedule for IT Analyst position.

[Staff Report](#)

[Attachment 1 - Resolution](#)

[Attachment 2 - Salary Schedule](#)

5. **PUBLIC HEARINGS:**

5.1. FENNEL MEDITERRANEAN KITCHEN AND BAR AT 26611 ALISO CREEK ROAD, SUITE A OF THE ALISO VIEJO TOWN CENTER (ADMINISTRATIVE USE PERMIT AND SITE DEVELOPMENT PERMIT TO ESTABLISH A NEW RESTAURANT SERVING FULL ALCOHOL AND PERFORM TENANT IMPROVEMENTS INCLUDING EXTERIOR MODIFICATIONS)

**Recommended Action:** Continue the public hearing to a date uncertain.

[Staff Report](#)

**6. DISCUSSION:**

6.1. AMENDMENT TO ALISO VIEJO MUNICIPAL CODE CHAPTER 10.06, PEDESTRIAN, BICYCLE, AND SKATEBOARD REGULATIONS, AND CHAPTER 11.10, PARKS, TO REGULATE ELECTRIC BICYCLES, BOARDS, AND OTHER MOTORIZED RECREATIONAL OF ELECTRIC TRANSPORTATION

**Recommended Action:**

1. Find that the proposed Ordinance is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Sections 15378(a), 15301(c), and 15061(b)(3); and
2. Introduce for first reading an Ordinance titled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, AMENDING CHAPTER 10.06 (PEDESTRIAN, BICYCLE, AND SKATEBOARD REGULATIONS) OF TITLE 10 (STREETS AND SIDEWALKS) AND CHAPTER 11.10 (PARKS) OF TITLE 11 (PARKS AND PUBLIC SPACES) OF THE ALISO VIEJO MUNICIPAL CODE, ESTABLISHING REGULATIONS RELATING TO ELECTRIC BICYCLES, MOTORIZED SCOOTERS, AND OTHER ELECTRICALLY MOTORIZED BOARDS ON SIDEWALKS AND PARKS IN THE CITY.

[Staff Report](#)

[Attachment 1 - Proposed Ordinance](#)

[Attachment 2 - Draft Ordinance \(Redlined\)](#)

**7. CITY MANAGER' S REPORT:**

**8. ANNOUNCEMENTS / COUNCIL COMMENTS / COMMITTEE UPDATES:**

**9. ADJOURNMENT:**

The next regularly scheduled City Council meeting is September 21, 2022.

*\*Aliso Viejo Public Facilities Corporation (PFC) Board of Directors Annual Meeting to be held immediately following City Council Regular Meeting. (Please refer to September 7, 2022 PFC Agenda.)*



# *Proclamation*

## **National Preparedness Month**

*WHEREAS*, National Preparedness Month, occurring annually in September since 9/11, creates an ideal opportunity for every resident of Aliso Viejo, California, to join citizens across the United States in preparing their homes, families, businesses, and communities for any type of emergency, including natural disasters, public health emergencies, and potential terrorist attacks; and

*WHEREAS*, the City of Aliso Viejo is currently responding to and recovering from the unprecedented impacts of the COVID-19 pandemic while concurrently preparing for heat waves, power outages, and the threat of wildfires and earthquakes; and

*WHEREAS*, the Federal Emergency Management Agency announced the 2022 National Preparedness Month theme of "A Lasting Legacy," and

*WHEREAS*, planning now, before the next disaster, is the best way to improve community recovery from disasters; and

*WHEREAS*, the City of Aliso Viejo partners with county, federal, state, local, private, and volunteer agencies to provide public education and volunteer programs, such as Community Emergency Response Team, to educate individuals on local hazards and how to prepare for them, and on how to take action; and

*WHEREAS*, all residents of Aliso Viejo are urged to plan ahead for disasters and encourage their family and friends to also do so by participating in preparedness activities, registering for AlertOC and Nixle mass notification systems, and visiting the City's preparedness website at: [AVcity.org/DisasterPreparedness](http://AVcity.org/DisasterPreparedness) for essential preparedness tips and information;

*NOW, THEREFORE*, the Aliso Viejo City Council hereby proclaims September 2022 as National Preparedness Month, and calls on all government agencies, private organizations, and the people and businesses of the City of Aliso Viejo to develop their own emergency preparedness plans, and work together toward creating a stronger, more resilient community.

*Dated this 7th day of September, 2022*



*Ross Chun, Mayor*



# City of Aliso Viejo

## **AGENDA ITEM**



DATE: September 7, 2022

TO: Mayor and City Council

FROM: Mitzi Ortiz, Director of Government Services

SUBJECT: RESOLUTION EXTENSION AUTHORIZING VIRTUAL CITY COUNCIL MEETINGS PURSUANT TO ASSEMBLY BILL 361

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### **Recommended Action:**

Move to reconfirm findings under Assembly Bill 361 and extend Resolution No. 2021-27 to continue virtual City Council meetings.

### **Fiscal Impact:**

None.

### **Background:**

Assembly Bill 361 ("AB 361"), effective October 1, 2021, waives certain provisions of the Ralph M. Brown Act and allows legislative bodies to meet virtually until January 1, 2024, provided there is a state of emergency and either:

1. state or local officials have imposed or recommended measures to promote social distancing; or
2. the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees.

Under AB 361, the City is not required to allow public access at teleconference locations; however, the City must provide access to meetings via a call-in option or internet-based service option so that members of the public may address the City Council in real time. Additionally, every 30 days the City Council must reconsider the state of emergency and make the determination to continue meeting virtually in accordance with AB 361.

### **Discussion:**

On October 20, 2021, the City Council adopted Resolution No. 2021-27 authorizing virtual City Council meetings under AB 361, having found and determined that (1) a state of emergency related to COVID-19 is currently in effect; (2) state and local officials have

recommended measures to promote social distancing in connection with COVID-19; and (3) due to the COVID-19 emergency, meeting in person would present imminent risks to the health and safety of attendees. At subsequent meetings, the City Council has reconfirmed the findings and extended the resolution pursuant to AB 361.

Staff will agendaize this matter for consideration at each City Council meeting until such time as the state of emergency has been terminated or the City Council determines that conditions no longer exist to prevent meeting safely in person.

Staff recommends that the City Council reconfirm the findings in Resolution No. 2021-27 continue to exist and approve the extension of the resolution.

**Attachment:**

1. Resolution No. 2021-27

**RESOLUTION NO. 2021-27**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, AUTHORIZING VIRTUAL CITY COUNCIL MEETINGS PURSUANT TO ASSEMBLY BILL 361**

**WHEREAS**, the Aliso Viejo City Council (“Council”) is committed to preserving and nurturing public access and participation in meetings of the Council; and

**WHEREAS**, with the exception of closed sessions, all meetings of the Council are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend and participate in the Council’s meetings; and

**WHEREAS**, starting in March 2020, in response to the spread of COVID-19 in the State of California, the Governor issued a number of executive orders aimed at containing the COVID-19 virus; and

**WHEREAS**, among other things, these orders waived certain requirements of the Brown Act to allow legislative bodies to meet virtually; and

**WHEREAS**, pursuant to the Governor’s executive orders, the Council has been holding virtual meetings during the pandemic in the interest of protecting the health and safety of the public, staff, and Councilmembers; and

**WHEREAS**, the Governor’s executive order related to the suspension of certain provisions of the Brown Act expires on September 30, 2021; and

**WHEREAS**, on September 16, 2021 the Governor signed Assembly Bill 361 (in effect as of October 1, 2021 – Government Code Section 54953(e)), which allows legislative bodies to meet virtually provided there is a state of emergency, and either (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees; and

**WHEREAS**, such conditions now exist in Orange County, specifically, a state of emergency has been proclaimed related to COVID-19, state and local officials are recommending measures to promote social distancing, and because of the ongoing threat of COVID-19, meeting in person would present imminent risks to the health and safety of attendees;

**NOW, THEREFORE, BE IT RESOLVED BY THE ALISO VIEJO CITY COUNCIL AS FOLLOWS:**

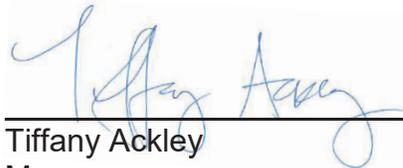
**Section 1. Recitals.** The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

**Section 2. Remote Teleconference Meetings.** Consistent with the provisions of Government Code Section 54953(e), the Council finds and determines that (1) a state of emergency related to COVID-19 is currently in effect; (2) state and local officials have recommended measures to promote social distancing in connection with COVID-19; and (3) due to the COVID-19 emergency, meeting in person would present imminent risks to the health and safety of attendees. Based on such facts, findings and determinations, the Council authorizes staff to conduct remote teleconference meetings of the Council under the provisions of Government Code Section 54953(e).

**Section 3. Effective Date of Resolution.** This Resolution shall take effect upon adoption and shall be effective for 30 days unless earlier extended by a majority vote of the Council in accordance with Section 4 of this Resolution.

**Section 4. Extension by Motion.** The Council may extend the application of this Resolution by motion and majority vote by up to 30 days at a time, provided that it makes all necessary findings consistent with and pursuant to the requirements of Section 54953(e)(3).

**PASSED, APPROVED AND ADOPTED** this 20th day of October, 2021.



Tiffany Ackley  
Mayor

APPROVED AS TO FORM:



Scott C. Smith  
City Attorney

ATTEST:



Mitzi Ortiz, MMC  
City Clerk

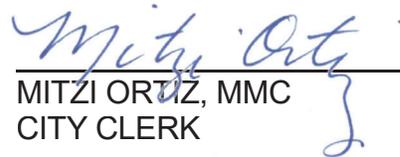
STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            ) ss.  
CITY OF ALISO VIEJO            )

I, MITZI ORTIZ, City Clerk of the City of Aliso Viejo, California, DO HEREBY CERTIFY that foregoing Resolution No. 2021-27 was duly passed and adopted by the City Council of the City of Aliso Viejo at their regular meeting held on the 20th day of October 2021, by the following roll call vote, to wit:

AYES:            Mayor Ackley, Mayor Pro Tem Chun, Councilmembers Harrington, Hurt and Munzing

NOES:           None

ABSENT:        None

  
\_\_\_\_\_  
MITZI ORTIZ, MMC  
CITY CLERK

(SEAL)

CITY OF ALISO VIEJO  
CITY COUNCIL MINUTES  
SPECIAL MEETING  
August 17, 2022, 6:30 P.M.  
Council Chambers, City Hall, 12 Journey  
Aliso Viejo, California

***City Council conducted this meeting in accordance with California Government Code Section 54953(e)(2) and COVID-19 pandemic protocols.***

**CALL TO ORDER:** Mayor Chun called the Special Meeting of the City Council of the City of Aliso Viejo to order 6:30 p.m.

**ROLL CALL:**

PRESENT: MAYOR ROSS CHUN *(via teleconference)*  
MAYOR PRO TEM RICHARD HURT *(via teleconference)*  
COUNCILMEMBER TIFFANY ACKLEY *(via teleconference)*  
COUNCILMEMBER DAVID C. HARRINGTON *(via teleconference)*  
COUNCILMEMBER MIKE MUNZING *(via teleconference)*

ABSENT: NONE

STAFF PRESENT: DAVID A. DOYLE, CITY MANAGER  
SCOTT C. SMITH, CITY ATTORNEY  
ANN EIFERT, FINANCIAL SERVICES DIRECTOR

**PUBLIC COMMENTS:**

None.

**CLOSED SESSION:**

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code section 54956.8

Property: 120 Playa Circle, Aliso Viejo, 92656

Agency Negotiators: City Manager

Negotiating Parties: City of Aliso Viejo, Alyssa Walker and/or their authorized agent(s)

Under Negotiation: Price and terms of payment

**REPORT FROM CLOSED SESSION:**

City Attorney Scott Smith stated no reportable action was taken.

**ADJOURNMENT:** Mayor Chun adjourned the meeting at 6:39 p.m. to the August 17, 2022 Regular City Council Meeting.

Respectfully submitted:

Approved by:

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MITZI ORTIZ, MMC  
CITY CLERK

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ROSS CHUN  
MAYOR

DRAFT

CITY OF ALISO VIEJO  
CITY COUNCIL MINUTES  
REGULAR MEETING  
August 17, 2022, 7:00 P.M.  
Council Chambers, City Hall, 12 Journey  
Aliso Viejo, California

***City Council conducted this meeting in accordance with California Government Code Section 54953(e)(2) and COVID-19 pandemic protocols.***

**CALL TO ORDER:** Mayor Chun called the Regular Meeting of the City Council of the City of Aliso Viejo to order at 7:26 p.m.

**ROLL CALL:**

PRESENT: MAYOR ROSS CHUN *(via teleconference)*  
MAYOR PRO TEM RICHARD HURT *(via teleconference)*  
COUNCILMEMBER TIFFANY ACKLEY *(via teleconference)*  
COUNCILMEMBER DAVID C. HARRINGTON *(via teleconference)*  
COUNCILMEMBER MIKE MUNZING *(via teleconference)*

ABSENT: NONE

STAFF PRESENT: DAVID A. DOYLE, CITY MANAGER  
SCOTT C. SMITH, CITY ATTORNEY  
MITZI ORTIZ, CITY CLERK  
ANN EIFERT, FINANCIAL SERVICES DIRECTOR  
SHAUN PELLETIER, PUBLIC WORKS DIRECTOR  
SO KIM, COMMUNITY DEVELOPMENT DIRECTOR  
JOHN KANLUND, ASSOCIATE PLANNER  
LIZZY MENDOZA, RECREATION & COMMUNITY SERVICES MANAGER  
ISAAC AZIZ, INFORMATION TECHNOLOGY MANAGER  
CAPT. SCOTT MERRILL, CHIEF OF POLICE SERVICES

**PLEDGE OF ALLEGIANCE:** Mayor Pro Tem Hurt led the pledge of allegiance.

**REPORT FROM CLOSED SESSION:**

City Attorney Scott Smith stated there was no reportable action.

**1. SPECIAL PRESENTATIONS:**

1.1. FEATURED BUSINESS OF THE MONTH - COLD STONE CREAMERY

Mayor Chun introduced the video and presented the certificate of recognition to Owner Lawrence Cassel. Mr. Cassel expressed his appreciation.

1.2. TRUSTED PARTNER RECOGNITIONS - SOUTH COUNTY OUTREACH AND FAMILY ASSISTANCE MINISTRIES

Mayor Chun presented the certificates of recognition to South County Outreach President LaVal Brewer and Family Assistance Ministries Chief Executive Officer Elizabeth Andrade. Mr. Brewer and Ms. Andrade expressed their appreciation.

1.3. STATE OF THE CITY VIDEO

Mayor Chun presented the State of the City video.

2. ADDITIONS, DELETIONS, REORDERING TO THE AGENDA:

City Manager David Doyle introduced Community Development Director So Kim

Mayor Chun expressed condolences on the passing of Valentino Rodriguez.

3. COMMUNITY INPUT:

None.

4. CONSENT CALENDAR:

Unless otherwise indicated below, the following pertains to all items on the Consent Calendar.

**Motion:** Councilmember Munzing moved and Mayor Pro Tem Hurt seconded to approve the recommended actions. Motion carried 5-0.

4.1. WAIVE THE READING OF ALL ORDINANCES AND RESOLUTIONS

**Recommended Action:** Approve the reading by title only of all ordinances and resolutions wherein the titles appear on the public agenda; said titles shall be determined to have been read by title, and further reading is waived.

4.2. RESOLUTION EXTENSION AUTHORIZING VIRTUAL CITY COUNCIL MEETINGS PURSUANT TO ASSEMBLY BILL 361

**Recommended Action:** Move to reconfirm findings under Assembly Bill 361 and extend Resolution No. 2021-27 to continue virtual City Council meetings.

4.3. APPROVAL OF MINUTES

**Recommended Action:** Approve the Minutes as submitted for the July 20, 2022 Regular Meeting.

4.4. ACCOUNTS PAYABLE

**Recommended Action:**

1. Ratify accounts payable checks and electronic funds transfers issued July 25, 2022, in the amount of \$750,932.53;
2. Ratify accounts payable checks and electronic funds transfers issued July 28, 2022, in the amount of \$1,154.11; and
3. Ratify accounts payable checks and electronic funds transfers issued August 4, 2022, in the amount of \$2,263,912.05.

4.5. TREASURER'S STATEMENT – JUNE 2022

**Recommended Action:** Approve June 2022 Treasurer's Statement.

4.6. CONTRACT WITH CT CONSTRUCTION SERVICES FOR CITY HALL SUITE 200 IMPROVEMENTS

**Recommended Action:**

1. Award a contract in the amount of \$106,491 to CT Construction Services, Inc. for the City Hall Suite 200 Improvements project;
2. Authorize the City Manager to execute a contract with CT Construction Services, Inc.; and
3. Authorize City staff to make total compensation to CT Construction Services, Inc. up to \$106,491 plus \$21,298 (20% of the contract amount) to allow for contingencies, totaling \$127,789.

5. PUBLIC HEARINGS:

- 5.1. FENNEL MEDITERRANEAN RESTAURANT (PA22-011): AN ADMINISTRATIVE USE PERMIT TO ESTABLISH AN ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE TYPE 47 (ON-SALE GENERAL – EATING PLACE) IN CONJUNCTION WITH A NEW 5 RESTAURANT (FENNEL MEDITERRANEAN RESTAURANT) AND A SITE DEVELOPMENT PERMIT (SDP) FOR EXTERIOR MODIFICATIONS TO THE BUILDING INCLUDING THE ENCLOSURE OF AN EXISTING PATIO WITHIN AN EXISTING TENANT SPACE LOCATED AT 26611 ALISO CREEK ROAD, SUITE A (ALISO VIEJO TOWN CENTER)

City Manager David Doyle provided an overview. Mayor Chun opened the public hearing. There were no comments.

**Recommended Action:** Staff recommends the City Council continue the public hearing to September 7, 2022.

**Motion:** Mayor Pro Tem Hurt moved and Councilmember Ackley seconded to approve the recommended action. Motion carried 5-0.

- 5.2. PLANNING APPLICATION PA22-012: SITE DEVELOPMENT PERMIT (SDP) FOR EXTERIOR MODIFICATIONS TO THE BUILDING AND COMMON AREAS, AND AN EXCEPTION PERMIT (EP) TO ALLOW THE OUTDOOR PATIO TO EXCEED 1,000 SQUARE FEET (PROPOSED AT 1,215 SQUARE FEET) AND PROJECT DESIGN FEATURES TO MITIGATE THE OPERATIONAL SOUND IMPACTS ON SURROUNDING BUSINESSES AND SENSITIVE USES, LOCATED IN AN EXISTING TENANT SPACE OF THE COMMONS (26541 ALISO CREEK ROAD, #F); AND A CONDITIONAL USE PERMIT (CUP) TO ESTABLISH AN ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE TYPE 47 (ON-SALE GENERAL – EATING PLACE AND BEER AND WINE FOR OFFSITE CONSUMPTION) FOR A FULL-SERVICE RESTAURANT (EUREKA!) OFFERING OUTDOOR DINING WITH LATE NIGHT HOURS

City Manager David Doyle introduced Associate Planner John Kanlund, who provided an overview. Staff responded to questions regarding exterior building façade and sidewalk access. Applicant Mark Fernandez, Golden Property Development LLC, provided additional information. Mayor Chun opened the public hearing. There were no comments. Councilmembers commented on the matter. Mayor Chun closed the public hearing.

**Recommended Action:**

1. Open and conduct the continued public hearing;
2. Find that the request is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Sections 15301 (Existing Facilities);
3. Adopt Resolution No. 2022-22 approving a Conditional Use Permit (CUP) to establish an Alcoholic Beverage Control (ABC) License Type 47 (On-Sale General – Eating Place and Offsite consumption) in conjunction with a new restaurant “Eureka!”; and
4. Adopt Resolution No. 2022-23 approving a Site Development Permit (SDP) to allow for exterior modifications including a new outdoor dining area, a new color scheme for the facade, and new landscaping, and an Exception Permit (EP) to allow the size of the outdoor dining area to exceed the code limit of 1,000 square feet (proposed at 1,215 square feet) and use design features to mitigate the operational sound impacts of the patio on surrounding businesses and sensitive uses for an existing tenant space of The Commons located at 26541 Aliso Creek Road, #F.

**Motion:** Councilmember Harrington moved and Councilmember Ackley seconded to approve the recommended actions. Motion carried 5-0.

6. **DISCUSSION:**

6.1. SELECTION OF VOTING DELEGATE FOR LEAGUE OF CALIFORNIA CITIES ANNUAL BUSINESS MEETING

City Manager David Doyle provided an overview.

**Recommended Action:** Designate a voting delegate and up to two alternates for the League of California Cities Annual Business Meeting to be held on September 9, 2022 at the Long Beach Convention Center.

**Motion:** Councilmember Munzing moved and Councilmember Ackley seconded to appoint Mayor Chun as voting delegate and Mayor Pro Tem as alternate. Motion carried 5-0.

7. CITY MANAGER' S REPORT:

City Manager David Doyle announced Red Cross Blood Drive to be held from 12:00 p.m. to 6:00 p.m. on September 14, 2022 at Aliso Viejo Ranch; Movie Night to be held at 6:00 p.m. on August 26, 2022 at Aliso Viejo Middle School; Aliso Viejo Trails and Creek Clean-Up to be held from 8:00 a.m. to 11:00 a.m. on September 17, 2022 at Aliso Viejo Ranch; registration for fall recreation programs.

8. ANNOUNCEMENTS / COUNCIL COMMENTS / COMMITTEE UPDATES:

Councilmember Harrington: None

Councilmember Munzing:

- Attended Aliso Viejo Chamber of Commerce Networking Breakfast
- Attended AVCA Concerts in the Park

Councilmember Ackley: None

Mayor Pro Tem Hurt:

- Encouraged residents to use Orange County Public Library services

Mayor Chun:

- Attended Eagle Scout Court of Honor for Thara Venkateswaran
- Attended Shakespeare by the Sea at Soka University
- Attended tour at Families Forward
- Expressed appreciation to participants in Walk Your Dog With The Mayor event
- Attended Furry Friends Pet Fair
- Attended Grand Opening for Aliso Creek Dental
- Attended tour at Glaukos facility
- Attended presentation by Impact Schools founder

9. **ADJOURNMENT:** Mayor Chun adjourned the meeting in memory of Valentino Rodriguez at 8:34 p.m. to the regularly scheduled meeting of September 7, 2022.

Respectfully submitted:

Approved by:

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MITZI ORTIZ, MMC  
CITY CLERK

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ROSS CHUN  
MAYOR

DRAFT

# City of Aliso Viejo

## **AGENDA ITEM**



DATE: September 7, 2022  
TO: Mayor and City Council  
FROM: Ann Eifert, Director of Financial Services  
SUBJECT: ACCOUNTS PAYABLE

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### **Recommended Actions:**

1. Ratify accounts payable checks and electronic funds transfers issued August 11, 2022, in the amount of \$808,902.23; and
2. Ratify accounts payable checks and electronic funds transfers issued August 18, 2022, in the amount of \$482,874.53.

### **Fiscal Impact:**

Expenditures in the amount of \$1,291,776.76.

### **Background:**

The City issues accounts payable checks on bi-weekly basis and presents it to City Council for ratification at its next regularly scheduled City Council meeting.

### **Discussion:**

The attached register containing checks and electronic funds transfers dated August 11, 2022, through August 18, 2022, for \$1,291,776.76 is being presented for ratification. All payments have been made in compliance with the City's purchasing policy and procedures. Payments have been reviewed and approved by the appropriate departmental staff. The issued accounts payable checks and electronic funds transfers have been reviewed and deemed accurate by the Director of Financial Services.

### **Attachment:**

1. Accounts Payable Report



# Accounts Payable

08/11/2022

Vendor Name	Description (Item)	Amount
<b>101 - GENERAL FUND</b>		
<b>LAW ENFORCEMENT-CONTRACT</b>		
COUNTY OF ORANGE	LIC GRANT REIMB COVID ARPA PP13 CREDIT	(15,493.94)
COUNTY OF ORANGE	AUG'22 CONTRACT PAYMENT CREDIT	(2,027.32)
COUNTY OF ORANGE	AUG'22 IN CAR VIDEO	7,823.85
COUNTY OF ORANGE	AUG'22 BODY WORN CAMERA	13,912.44
COUNTY OF ORANGE	AUG'22 LAW ENFORCEMENT	798,643.94
	<b>LAW ENFORCEMENT-CONTRACT TOTAL:</b>	<b>802,858.97</b>
	<b>GENERAL FUND TOTAL:</b>	<b>802,858.97</b>
<hr/>		
<b>215 - PUBLIC SAFETY GRANTS</b>		
<b>LAW ENFORCEMENT-OTHER</b>		
COUNTY OF ORANGE	AUG'22 MOTORCYCLE REPLACEMENT COSTS	65.92
COUNTY OF ORANGE	AUG'22 E CITATION REPLACEMENT COSTS	91.82
COUNTY OF ORANGE	AUG'22 E CITATION RECURRING COSTS	291.45
COUNTY OF ORANGE	AUG'22 MDC REPLACEMENT	1,550.49
COUNTY OF ORANGE	AUG'22 MDC RECURRING	4,043.58
	<b>LAW ENFORCEMENT-OTHER TOTAL:</b>	<b>6,043.26</b>
	<b>PUBLIC SAFETY GRANTS TOTAL:</b>	<b>6,043.26</b>
	<b>GRAND TOTAL:</b>	<b>808,902.23</b>



# Accounts Payable

08/18/2022

Vendor Name	Description (Item)	Amount
<b>101 - GENERAL FUND</b>		
CALIFORNIA NEWSPAPERS PARTNERSHIP	REF0011546163-7/7 SDP-2022-0001/COMMONS PH	607.60
CALIFORNIA NEWSPAPERS PARTNERSHIP	REF0011545955-7/7 PA22-011/FENNEL PUBLIC HEARING	576.60
CALIFORNIA NEWSPAPERS PARTNERSHIP	REF0011545741-7/7 PA22-012/EUREKA PUBLIC HEARING	570.40
CHOICE BUILDER	SEP'22 DENTAL INSURANCE	2,352.72
CHOICE BUILDER	SEP'22 VISION INSURANCE	349.86
CHARLES ABBOTT ASSOC INC	MAY'22 CAA ENG 5049 COX UTILITY	120.51
CHARLES ABBOTT ASSOC INC	MAY'22 CAA ENG 5005 SCE - SADDLEBACK	1,132.82
CHARLES ABBOTT ASSOC INC	MAY'22 CAA ENG 2248 SUMMIT IV 15-25 ENTERPRISE	718.20
CHARLES ABBOTT ASSOC INC	MAY'22 CAA ENG 5004 MNWD	626.67
CHARLES ABBOTT ASSOC INC	MAY'22 CAA ENG 5002 AT&T	626.67
CHARLES ABBOTT ASSOC INC	MAY'22 CAA ENG 5003 COX	433.85
CHARLES ABBOTT ASSOC INC	MAY'22 CAA ENG 5046 NX UTILITIES	337.44
CHARLES ABBOTT ASSOC INC	MAY'22 CAA ENG 5064 CLEAR THOUGHT CONT	192.82
CHARLES ABBOTT ASSOC INC	MAY'22 CAA ENG 5008 THE GAS COMPANY	168.72
CHARLES ABBOTT ASSOC INC	MAY'22 CAA-7 COMPUTER STATIONS LEASE CREDIT	(350.00)
WILLARD WOODWORKS INC	P#20-1036/11 CALEDON COURT-WILLARD WOODWORKS INC	750.00
OAKBROOK LANDSCAPE AND POOL CONSTRUCTION INC	P#21-1894/EP21-11-107-SURETY REFUND-OAKBROOK LNDSC	3,000.00
OAKBROOK LANDSCAPE AND POOL CONSTRUCTION INC	P#21-1894/47 SILKWOOD-OAKBROOK LANDSCAPE & POOL	500.00
CORESTATES CONSTRUCTION SERVICES, INC	P#21-1373/26881 ALISO CREEK RD-CORESTATES CONS.	1,500.00
CORESTATES CONSTRUCTION SERVICES, INC	P#21-1373/26881 ALISO CREEK RD-CORESTATES CONS.	1,500.00
ACKLEY FOR CITY COUNCIL 2022	REFUND OF CAND. STMT OVRPYMT-ACKLEY FOR CC 2022	45.00
		<b>15,759.88</b>
<b>CITY COUNCIL</b>		
RICHARD HURT III	RH-5/4-5/5 SCAG CONF-MILEAGE REIMB	141.57
	<b>CITY COUNCIL TOTAL:</b>	<b>141.57</b>
<b>CITY MANAGER</b>		
OC CITY MANAGERS' ASSN	DD-FY22-23 OCCMA MEMBERSHIP DUES	432.00
	<b>CITY MANAGER TOTAL:</b>	<b>432.00</b>
<b>HUMAN RESOURCES</b>		
CHARLES C STILL	JUN'22-ML SECURE LIVE SCAN FEES	57.00
CHARLES C STILL	JUL'22-SK/EM SECURE LIVE SCAN FEES	124.00
US BANK PURCHASING CARD PROGRAM	LM-CPRS SPECIALIST JOB PLACEMENT AD	75.00
	<b>HUMAN RESOURCES TOTAL:</b>	<b>256.00</b>
<b>CITY CLERK</b>		
CALIFORNIA NEWSPAPERS PARTNERSHIP	REF0011545822-7/7 NOTICE OF ELECTION-ENGLISH	312.48
CALIFORNIA NEWSPAPERS PARTNERSHIP	REF0011545830-7/7 NOTICE OF ELECTION-SPANISH	322.40
STAPLES ADVANTAGE	CC-ELECTION SUPPLIES-BINDERS	57.00
STAPLES ADVANTAGE	CC-OFFICE SUPPLIES	127.07
	<b>CITY CLERK TOTAL:</b>	<b>818.95</b>
<b>FINANCE</b>		
CHOICE BUILDER	SEP'22 ADMIN FEE	35.00
GARDAWORLD	AUG'22-CH-CASH COURIER SERVICE	439.14
US BANK PURCHASING CARD PROGRAM	AE-FY22-23 CMTA MEMBERSHIP DUES	95.00
US BANK PURCHASING CARD PROGRAM	AE-FY22-23 CSMFO MEMBERSHIP DUES	110.00
US BANK N.A. - CUSTODY	JUL'22 CUSTODIAN CHARGES	177.25
	<b>FINANCE TOTAL:</b>	<b>856.39</b>
<b>INFORMATION TECHNOLOGY</b>		
COX COMMUNICATIONS, INC	7/10-8/9/22 ACCT#0202-CH-TV/CABLE	173.86
COX COMMUNICATIONS, INC	7/19-8/18/22 ACCT #9302-CH-IT SERVER ROOM	85.39
NATHAN M KEETER	JUL'22 NETWORK SUPPORT & SECURITY ENGINEER	416.67
AT&T	7/6-8/5/22 CH AT&T POT LINES	3,200.30
AMERICOMP GROUP IMAGING LLC	6/22 FINANCE PRINTER TONER	652.94
GOTO COMMUNICATIONS	AUG'22 CH GOTO VOIP SERVICE & SUPPORT	1,858.66
TANGENT COMPUTERS INC	6/23-7/22/22 CH MICROSOFT 365 E3 LICENSES	2,291.47

Vendor Name	Description (Item)	Amount
LUNAVI, INC	AUG'22 OFFSITE BACKUP STORAGE SERVICE-ZERTO	1,639.90
GOVERNMENTJOBS.COM INC	FY22-23 NEOGOV SUBSCRIPTION	6,049.23
	<b>INFORMATION TECHNOLOGY TOTAL:</b>	<b>16,368.42</b>
<b>NON-DEPARTMENTAL</b>		
CIVICPLUS INC	8/31/22 - 8/30/23 WEBSITE MAINT & HOSTING	4,625.87
J&M TROPHIES INC	PLATES & BADGES - EM & JA	80.92
PEAK LIGHTING & ELECTRIC INC	JUL'22 VISTA PARK LIGHTING MAINT	105.01
RICOH USA	8/1-8/31/22 RICOH 2504EX SUITE 200-COPIES	21.00
RICOH USA	5/1-7/31/22-RICOH PRO 5200S COPIES	520.05
RICOH USA	5/1-7/31/22 RICOH 2504 (SUITE 200)-COPIES	0.09
RICOH USA	7/1-7/31/22-RICOH 2504EX (FRONT COUNTER)-COPIES	149.98
CINTAS CORPORATION NO. 2	AUG'22 CITY HALL FIRST AID SUPPLIES	153.07
US BANK PURCHASING CARD PROGRAM	KB-RAV4TIRES-PEPBOYS	766.89
US BANK PURCHASING CARD PROGRAM	KB-CHEVY 2500 TIRES-AMERICA'S TIRES	1,011.42
FEDERAL EXPRESS	7/29/22-DH & RH COUNCIL MAIL	26.50
STAPLES ADVANTAGE	CEN-OFFICE & BREAKROOM SUPPLIES	362.17
QUADIENT FINANCE USA, INC	QUADIENT POSTAGE 8/9/22 THROUGH	500.00
CALIFORNIA JPIA	FY22-23 POLLUTION LIABILITY INSURANCE	1,783.00
QUADIENT LEASING USA INC	5/29-8/28/22 POSTAGE MACHINE LEASE	590.39
ALISO VIEJO SELF STORAGE	SEP-DEC'22 STORAGE UNIT RENT #519	1,265.00
ALISO VIEJO SELF STORAGE	SEP-DEC'22 STORAGE UNIT RENT #535	1,505.00
	<b>NON-DEPARTMENTAL TOTAL:</b>	<b>13,466.36</b>
<b>C. S. ADMINISTRATION</b>		
SOLINK INC	180 VETERANS BRUNCH INVITATIONS 2022	139.00
MAGICSNOW SYSTEMS	6 MAGIC SNOW MACHINES FOR 2022 TREE LIGHTING EVT	2,762.05
US BANK PURCHASING CARD PROGRAM	NL-7/14 INTERVIEW PANEL LUNCH-OPAH	113.90
US BANK PURCHASING CARD PROGRAM	NL-PET FAIR SUPPLIES-AMAZON	26.70
US BANK PURCHASING CARD PROGRAM	NL-PET FAIR SUPPLIES-AMAZON	22.62
US BANK PURCHASING CARD PROGRAM	NL-PET FAIR SUPPLIES-AMAZON	15.06
US BANK PURCHASING CARD PROGRAM	NL-7/12 COMBO LOCK-HOME DEPO	44.13
	<b>C. S. ADMINISTRATION TOTAL:</b>	<b>3,123.46</b>
<b>IGLESIA PARK</b>		
PV MAINTENANCE INC	JUL'23 IGLESIA PARK MAINTENANCE	242.30
US BANK PURCHASING CARD PROGRAM	KB-CABINET REPAIR MATERIALS-HOME DEPOT	13.20
SO CAL EDISON	JUL'22 ACCT#7997 IGLESIA PARK ELECTRICITY	143.22
	<b>IGLESIA PARK TOTAL:</b>	<b>398.72</b>
<b>IGLESIA BUILDING</b>		
SO CAL EDISON	JUL'22 ACCT#7997 IGLESIA BLDG ELECTRICITY	2,026.58
	<b>IGLESIA BUILDING TOTAL:</b>	<b>2,026.58</b>
<b>PLANNING</b>		
CHOICE BUILDER	AUG'22 DENTAL - IZZAK MIRELES	(11.32)
CHOICE BUILDER	AUG'22 VISION - IZZAK MIRELES	(6.48)
REBECCA J CAHA	JUL'22-10.25HRS AFFORDABLE HOUSING PROFESSIONAL SR	1,537.50
	<b>PLANNING TOTAL:</b>	<b>1,519.70</b>
<b>BUILDING</b>		
CHARLES ABBOTT ASSOC INC	MAY'22 MAY'22 CAA BUILDING SRV-PERMIT TECH	415.16
CHARLES ABBOTT ASSOC INC	MAY'22 CAA BUILDING SERVICES	39,653.85
	<b>BUILDING TOTAL:</b>	<b>40,069.01</b>
<b>CODE ENFORCEMENT</b>		
CHARLES ABBOTT ASSOC INC	MAY'22 CAA CODE ENFORCEMENT	6,413.22
	<b>CODE ENFORCEMENT TOTAL:</b>	<b>6,413.22</b>
<b>ENGINEERING (GENERAL)</b>		
PV MAINTENANCE INC	AUG'22 PUBLIC WORKS WAREHOUSE LEASE	1,035.00
LAGUNA CANYON FOUNDATION	FY22-23 WCB ALISO CREEK RESTORATION MATCHING FUNDS	15,000.00
CHARLES ABBOTT ASSOC INC	MAY'22 CAA NPDES COSTS	42,807.87
CHARLES ABBOTT ASSOC INC	MAY'22 PUBLIC WORKS FACILITY MAINT-ADMIN	72.31
	<b>ENGINEERING (GENERAL) TOTAL:</b>	<b>58,915.18</b>
<b>STREET MAINTENANCE</b>		
PV MAINTENANCE INC	JUL'22 STREET MAINTENANCE (45%)	23,447.45
CHARLES ABBOTT ASSOC INC	MAY'22 CAA STREET MAINTENANCE	3,071.87
	<b>STREET MAINTENANCE TOTAL:</b>	<b>26,519.32</b>

Vendor Name	Description (Item)	Amount
<b>LAW ENFORCEMENT-OTHER</b>		
OCEAN BLUE ENVIRONMENTAL SERVICES INC	6/26 BIOHAZARDOUS CLEANUP-ALISO CREEK& 73	826.00
	<b>LAW ENFORCEMENT-OTHER TOTAL:</b>	<b>826.00</b>
<b>ANIMAL CONTROL</b>		
CITY OF MISSION VIEJO	FY20-21 TRUE UP ADJUSTMENT	(42,267.21)
CITY OF MISSION VIEJO	JUL-SEP'22 ANIMAL CONTROL SERVICES	110,669.00
	<b>ANIMAL CONTROL TOTAL:</b>	<b>68,401.79</b>
	<b>GENERAL FUND TOTAL:</b>	<b>256,312.55</b>

## 102 - GEN. FD-CITY HALL

### NON-DEPARTMENTAL

SONITROL ORANGE COUNTY LLC	JUL'22 CH FIRE ADD ON FIRE EQUIPMENT	100.00
SONITROL ORANGE COUNTY LLC	JUL'22 CH FIRE ALARM MONITORING	90.00
PEAK LIGHTING & ELECTRIC INC	JUL'22 CITY HALL LIGHTING MAINT	99.00
US BANK PURCHASING CARD PROGRAM	KB-CH RESTROOMS PLUMBING REPAIR-HOME DEPOT	28.42
US BANK PURCHASING CARD PROGRAM	KB-BATTERIES FOR RESTROOM EQUIP-HOME DEPOT	36.35
THURSTON ELEVATOR CONCEPTS INC	AUG'22 CITY HALL ELEVATOR MONITORING SRV	131.00
HARBOR STATION MAINTENANCE	AUG'22 -JUN'22- 35 PLAYA HOA FEES	1,925.00
SO CAL EDISON	JUL'22 ACCT#7189 CITY HALL ELECTRICITY	8,127.82
THE GAS COMPANY	JUL'22 MTR#6544 CITY HALL GAS SERVICE	143.73
KINNEY'S KEYS	JUL'22 CH-SHERIFF'S DEPT KEYS	18.23
	<b>NON-DEPARTMENTAL TOTAL:</b>	<b>10,699.55</b>
	<b>GEN. FD-CITY HALL TOTAL:</b>	<b>10,699.55</b>

## 103 - GF-AV RECREATION SERVICES

### RECREATION SERVICES

AARON FLORA	7/18 FRUIT TREE REPLACEMENTS AT GOLD COAST FARM	380.00
PV MAINTENANCE INC	JUL'22 AV RANCH MAINTENANCE	2,816.55
UNITED BUILDING AND DEVELOPMENT SERVICES LLC	AUG'22 AVR BARN DOOR REPAIR	3,350.00
GARDAWORLD	AUG'22-AVR-CASH COURIER SERVICE	439.14
TEAM ONE MANAGEMENT SERVICES	JUL'22 AV RANCH JANITORIAL SERVICES	5,300.00
AT&T	7/6-8/5/22 AVR AT&T POT LINES & INTERNET	930.05
LYONS SECURITY SERVICE IN	JUL'22 26.5HRS AVR EVENT SECURITY SERVICES	2,173.00
PEAK LIGHTING & ELECTRIC INC	JUL'22 AVR LIGHTING MAINT	221.01
CINTAS CORPORATION NO. 2	AUG'22 AVR FIRST AID SERVICES	204.78
US BANK PURCHASING CARD PROGRAM	KB-CLEANING EQUIP FOR MODULAR WALLS-WALMART	138.78
US BANK PURCHASING CARD PROGRAM	KB- FARM EXT LIGHT-HOME DEPOT	57.02
US BANK PURCHASING CARD PROGRAM	KB-AVR VINYL FLOOR REPAIR KITS-HOME DEPOT	15.58
US BANK PURCHASING CARD PROGRAM	KB-AVR RECESSED FLOOR BOX COVERPLATE-MR SUPPLY	66.61
US BANK PURCHASING CARD PROGRAM	LM-7/11 CITY DAY CAMP MOVIE TICKETS	148.50
US BANK PURCHASING CARD PROGRAM	LM-7/14 CITY DAY CAMP MOVIE TICKETS	162.90
US BANK PURCHASING CARD PROGRAM	LM-7/14 CITY DAY CAMP MOVIE TICKETS	162.90
US BANK PURCHASING CARD PROGRAM	LM-7/14 CITY DAY CAMP MOVIE TICKETS	162.90
US BANK PURCHASING CARD PROGRAM	LM-7/28 CITY DAY CAMP LEGOLAND TICKETS	767.92
US BANK PURCHASING CARD PROGRAM	LM-7/28 CITY DAY CAMP LEGOLAND TICKETS	767.92
US BANK PURCHASING CARD PROGRAM	LM-7/14 CITY DAY CAMP DAVE & BUSTERS	700.00
US BANK PURCHASING CARD PROGRAM	LM-7/28 CITY DAY CAMP LEGOLAND TICKETS	767.92
US BANK PURCHASING CARD PROGRAM	LM-AV RANCH LID HOLDERS STAFF BADGES-AMAZON	20.66
US BANK PURCHASING CARD PROGRAM	NL-DAY CAMP WRISTBANDS FOR EXCURSION-AMAZON	14.00
US BANK PURCHASING CARD PROGRAM	NL-7/20 DAY CAMP EXCURSION FOOD FOR STAFF SUBWAY	29.55
US BANK PURCHASING CARD PROGRAM	NL-7/13 DAY CAMP EXCURSION FOOD FOR STAFF SUBWAY	22.86
US BANK PURCHASING CARD PROGRAM	NL-7/7 DAY CAMP EXCURSION PRKG-KNOTT'S BERRY FARM	25.00
US BANK PURCHASING CARD PROGRAM	NL-7/10 DAY CAMP SUNSCREEN-AMAZON	33.60
US BANK PURCHASING CARD PROGRAM	NL-7/13 DAY CAMP EDIBLE CRAFT SUPPLIES-SMART&FINAL	28.74
CAPISTRANO UNIFIED SCHOOL DISTRICT	JUN'22 CITY DAY CAMP EXCURSIONS TRANSPORTATION	2,887.50
PREMIER AQUATIC SERVICES	SUMMER22-PAB004/PAK008/PAM008 SWIM-28PART	7,057.50
CHAD BEELER	SUMMER2022-LMS007 LITTLE MERMAIDS-3PARTICIPANTS	361.60
CULINARY COOKINGS KIDS LLC	SUMMER2022-CKC007 CULINARY KIDS-27PARTICIPANTS	3,285.00
LAURELINDA HAUSSON	SU22-PAE040/38/10/33/25/08/32/42/LATE PU-57PART	7,797.00
BREAKTHROUGH SPORTS LLC	SUMMER2022-BTS005/006BASKETBALL-21PARTICIPANTS	3,026.40
DESTINATION SCIENCE EDUCATION FOR EVERY CHILD	SUMMER2022-DST002 SCIENCE CAMP-18PARTICPANTS	3,091.20
EDWIN RATLEDGE	SUMMER2022-VOC004 VOLLEYBALL-6PARTICIPANTS	774.00
CORAL BAY HOME LOANS	SUMMER2022-SKT003/004 SKATEBOARDING-26PARTICIPANTS	3,642.00

Vendor Name	Description (Item)	Amount
SKYHAWKS SPORTS ACADEMY, INC	SUMMER22-SKY010 SPORT CAMP-14PARTICIPANTS	1,488.00
STAPLES ADVANTAGE	RCS-OFFICE SUPPLIES	213.58
HASA INC	JUL-SEP'22 AQUAPONICS MAINTENANCE	440.00
GOTO COMMUNICATIONS	AUG'22 AVR GOTO VOIP SERVICE & SUPPORT	679.29
TANGENT COMPUTERS INC	6/23-7/22/22 AVR MICROSOFT 365 E3 LICENSES	425.53
SO CAL EDISON	JUL'22 ACCT#4551 THE FARM ELECTRICITY	1,144.98
SO CAL EDISON	JUL'22 ACCT#6247 AV RANCH TRACKED CHARGES	1,353.61
SO CAL EDISON	JUL'22 ACCT#6247 AV RANCH ELECTRICITY	4,505.13
	<b>RECREATION SERVICES TOTAL:</b>	<b>62,080.21</b>

**GF-AV RECREATION SERVICES TOTAL: 62,080.21**

**203 - GAS TAX**

**TRAFFIC ENGINEERING**

HARTZOG & CRABILL INC	JUL'22 TRAFFIC SIGNAL MONITORING	1,000.00
	<b>TRAFFIC ENGINEERING TOTAL:</b>	<b>1,000.00</b>

**STREET MAINTENANCE**

PV MAINTENANCE INC	JUL'22 STREET MAINTENANCE (GAS 55%)	28,658.00
UNDERGROUND SERVICE ALERT OF SOUTHERN CA	AUG'22 DATABASE MAINTENANCE & 30 TICKETS	60.75
SO CAL EDISON	JUL'22 GS1 MEDIANS ELECTRICITY	70.39
SO CAL EDISON	JUL'22 STREET LIGHTS LS2 ELECTRICITY	1,112.67
SO CAL EDISON	JUL'22 STREET LIGHTS LS1 ELECTRICITY	15,395.46
SO CAL EDISON	JUL'22 STREET LIGHTS TC1 ELECTRICITY	3,194.64
	<b>STREET MAINTENANCE TOTAL:</b>	<b>48,491.91</b>

**GAS TAX TOTAL: 49,491.91**

**251 - FEDERAL GRANTS**

**GEN-FEDERAL GRANT**

US BANK PURCHASING CARD PROGRAM	AE-AF 38 COLONIAL WAY INSPECTION FEE	481.28
SOUTH COUNTY OUTREACH	APR-JUN'22 COVID RELIEF HUNGER&HOMELESS PREVENTION	24,357.99
FAIR HOUSING FOUNDATION	APR-JUN'22 FAIR HOUSING FOUNDATION SERVICES	628.81
	<b>GEN-FEDERAL GRANT TOTAL:</b>	<b>25,468.08</b>

**FEDERAL GRANTS TOTAL: 25,468.08**

**260 - CITY FAC.-CONF. CENTER**

**GEN-CONFERENCE CENTER**

US BANK PURCHASING CARD PROGRAM	KB-HOME DEPOT - AV CENTER DOOR REPAIR	5.52
	<b>GEN-CONFERENCE CENTER TOTAL:</b>	<b>5.52</b>

**CITY FAC.-CONF. CENTER TOTAL: 5.52**

**261 - CITY FAC.-AQUATIC CENTER**

**GEN-AQUATIC CENTER**

COX COMMUNICATIONS, INC	7/19-8/18/22 ACCT#6701-AQ CTR INTERNET	497.36
GARDAWORLD	AUG'22-AQ CTR-CASH COURIER SERVICE	439.14
PEAK LIGHTING & ELECTRIC INC	JUL'22 AQ CTR LIGHTING MAINT	119.73
US BANK PURCHASING CARD PROGRAM	KB-AQ CTR SPA PUMP MOTOR SEAL-SUPERIOR POOL	28.36
US BANK PURCHASING CARD PROGRAM	KB-AQ CTR TAP & DYE SET FOR REPAIR-HARBOR FREIGHT	63.06
US BANK PURCHASING CARD PROGRAM	KB-AQ CTR FILTER PIPE REPAIR-HOME DEPOT	135.70
PREMIER AQUATIC SERVICES	AQ CTR-JUL'22 SWIM INSTRUCTOR AD-INDEED	300.00
PREMIER AQUATIC SERVICES	AQ CTR-SWIM GRADUATION TOY BIN/KICK STICKS-AMAZON	241.83
PREMIER AQUATIC SERVICES	AQ CTR-JUL'22 LIFEGUARD AD-INDEED	493.00
PREMIER AQUATIC SERVICES	AQ CTR-JUL'22 GENERAL HIRING AD -FACEBOOK	376.74
STAPLES ADVANTAGE	AQ CTR- OFFICE SUPPLIES	44.71
THE GAS COMPANY	JUL'22 MTR#2349 AQ CTR GAS SERVICE	1,908.78
KNORR SYSTEMS INC	APR'22 CREDIT MEMO - TITAN WINDER COVERS	(459.80)
KNORR SYSTEMS INC	JUN'22 AQC MONTHLY MAINTENANCE	1,792.64
STGSD, INC	AQ CTR-7/26 GOGGLES	1,918.08
FINIS, INC	AQ CTR-4/28 SWIM DIAPERS/PULL BOUYS/KICKBOARDS	665.99
FINIS, INC	AQ CTR-5/9 SWIM DIAPERS/PULL BOUYS/KICKBOARDS	238.26
FINIS, INC	AQ CTR-7/1 SWIM DIAPERS/PULL BOUYS/KICKBOARDS	100.32
	<b>GEN-AQUATIC CENTER TOTAL:</b>	<b>8,903.90</b>

**CITY FAC.-AQUATIC CENTER TOTAL: 8,903.90**

Vendor Name	Description (Item)	Amount
<b>311 - STREET IMPROVEMENTS</b>		
<b>STREETS &amp; HIGHWAYS</b>		
LOCAL AGENCY ENGINEERING, INC	7/26-7/31 ALISO CREEK RD REHAB-ENTERPRISE TO SR73	225.31
ENGINEERING RESOURCES OF SOUTHERN CALIFORNIA	JUL'22 ALISO CREEK RD REHAB-ENTERPRISE TO SR73	7,965.24
ENGINEERING RESOURCES OF SOUTHERN CALIFORNIA	JUL'22 #128 ENTERPRISE REHAB-ACR TO AVP DESIGN	13,235.76
	<b>STREETS &amp; HIGHWAYS TOTAL:</b>	<b>21,426.31</b>
	<b>STREET IMPROVEMENTS TOTAL:</b>	<b>21,426.31</b>
<hr/>		
<b>332 - STORM WATER</b>		
<b>DRAINAGE IMPROVEMENTS</b>		
PV MAINTENANCE INC	JUL'22 #030 WOOD CANYON WETLANDS MAINT	2,123.00
	<b>DRAINAGE IMPROVEMENTS TOTAL:</b>	<b>2,123.00</b>
	<b>STORM WATER TOTAL:</b>	<b>2,123.00</b>
<hr/>		
<b>741 - RENEWABLE FARMS</b>		
AARON FLORA	JUL'22 RENEWABLE FARMS-RETENTION PAYMENT	(5,151.50)
AARON FLORA	JUL'22 RENEWABLE FARMS-PAYMENT	51,515.00
	<b>RENEWABLE FARMS TOTAL:</b>	<b>46,363.50</b>
	<b>GRAND TOTAL:</b>	<b>482,874.53</b>

# City of Aliso Viejo

## **AGENDA ITEM**



DATE: September 7, 2022  
TO: Mayor and City Council  
FROM: Ann Eifert, Director of Financial Services/City Treasurer  
SUBJECT: TREASURER'S STATEMENT – JULY 2022

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### **Recommended Action:**

Approve July 2022 Treasurer's Statement.

### **Fiscal Impact:**

No Fiscal Impact

### **Background:**

Per City policy, the Finance Department presents the monthly Treasurer's Statement for the City Council's review and approval. This statement shows the cash balances for the various funds, with a breakdown of bank account balances, investment account balances and the effective yield earned from investments.

### **Discussion:**

The City's portfolio consists of investments in Certificates of Deposits (CD), Medium Term Notes, US Treasury bonds, Federal Agency (Government Sponsored Enterprises (GSE)) bonds, Corporate Notes (CN), and Local Agency Investment Fund (LAIF). All funds invested with LAIF are available for withdrawal within 24 hours.

With Proposition 1A, the State does not have the ability to borrow from funds invested in LAIF. CD's are insured by Federal Deposit Insurance Corporation (FDIC). FDIC is an independent agency created by Congress in 1933 to supervise banks, insure deposits, and help maintain a stable and sound banking system. Investments in agencies are backed by the implied guarantee of the U.S. government. All CN's purchased are rated "AA" or better by a nationally recognized rating agency.

Interest is credited to the City's bank account on a monthly basis. All deposits in excess of FDIC insurance limits are collateralized by the financial institution in accordance with government codes.

Fund transfers for capital projects and reimbursement of fiscal charges for the CFD 2005-01 are completed on a quarterly basis.

**Attachment:**

1. Jul'22 Treasurer's Statement

**CITY OF ALISO VIEJO  
TREASURER'S MONTHLY CASH STATEMENT**

July 31, 2022

	BEGINNING BALANCE	RECEIPTS	DISBURSEMENTS	TRANSFERS IN (OUT)	ENDING BALANCE
GENERAL FUND	\$ 8,118,065.07	\$ 2,006,015.74	\$ 4,119,653.85		\$ 6,004,426.96
TCRF	\$ 78,264.08				78,264.08
GAS TAX FUND	\$ 817,305.45	100,187.16	172,018.69		745,473.92
MEASURE M	\$ 1,196,180.20	153,563.77	876.00		1,348,867.97
SB1-RMRA	\$ 663,933.49	93,759.54			757,693.03
PUBLIC SAFETY GRANTS	\$ 145,417.98		9,247.23		136,170.75 (1)
AIR QUALITY IMPRV MNT FD	\$ 1,071,335.55				1,071,335.55
INTEGRATED WASTE MGMT FD	\$ 86,192.00				86,192.00
OTHER GRANTS	\$ (314,028.55)				(314,028.55)
TECHNOLOGY GRANT	\$ 204,466.69	3,420.89	815.00		207,072.58
DEVELOPMENT IMPACT	\$ 1,410,622.33				1,410,622.33
FEDERAL GRANTS	\$ 2,846,205.15	107,677.54	108,819.86		2,845,062.83
CITY FACILITY - AV CTR	\$ 179,758.92				179,758.92
CITY FACILITY - AQUATIC CTR	\$ 104,216.38	132,615.74	152,108.83		84,723.29
STREET IMPROVEMENTS	\$ 147,722.98	4,029.78	96,328.48		55,424.28 (2)
CAPITAL IMPROVEMENTS	\$ 144,733.77		144,733.77		- (2)
STORM WATER	\$ -				- (2)
COP CAPITAL	\$ -				- (2)
COP	\$ (8,274.33)				(8,274.33)
AV RANCH FOUNDATION	\$ 50.00				50.00
CFD 2005-01	\$ (3,899.98)	39,349.33	42,555.33		(7,105.98)
RENEWABLE FARMS	\$ 55,096.50	52,951.00	19,641.50		88,406.00
COMMUNITY TRUST	\$ 7,840.68		300.00		7,540.68
<b>TOTALS</b>	<b>\$ 16,951,204.36</b>	<b>\$ 2,693,570.49</b>	<b>\$ 4,867,098.54</b>	<b>\$ -</b>	<b>\$ 14,777,676.31</b>

**SUMMARY OF CASH:**

DEMAND DEPOSITS:	GENERAL ACCOUNT	\$ 3,479,134.11
SAVINGS ACCOUNT:	MONEY MARKET	\$ 25,698.39
INVESTMENTS:	LOCAL AGENCY INVESTMENT FD	\$ 11,272,843.81

**TOTAL CASH**

**\$ 14,777,676.31**

Years to Maturity for July 2022	1.13
Weighted Average Yield for July 2022	1.650%

All investments are placed in accordance with the City of Aliso Viejo's Investment Policy.

The above summary provides sufficient cash flow liquidity to meet the next six month's estimated expenditures.

Other monies held include Cash with Fiscal Agent, Investments, Payroll and AV Center.

**\$ 30,975,137.47**

Cash With Fiscal Agent	COPS/CFD 2005-01	4,609,474.98
Cash With Investment Advisor	City Investments	24,110,300.54
AV Center		2,064,150.80
PR Account		188,303.15
Petty Cash		2,908.00

**GRAND TOTAL OF CITY FUNDS**

**\$ 45,752,813.78**

(1) Public Safety Grant includes the MDC and PVS Program Costs budgeted with SLESF funds.

(2) Transfers in and out are done on a quarterly basis.

Street Improvements include the Slurry Seal, Traffic Management and Street Improvement Projects.

Capital Improvements include park and AV Ranch improvement projects.

Storm Water includes the Dairy Fork and Wood Canyon Emergent Wetland Project.

# City of Aliso Viejo

Portfolio Summary  
As of 7/31/2022

Investment Type	Original Cost	Par Value	Market Value *	% of Portfolio
<b>Federal Agency Coupon Securities</b>	\$ 9,224,549	\$ 9,235,000	\$ 9,128,597	26.07%
<b>LAIF</b>	\$ 11,272,844	\$ 11,272,844	\$ 11,272,844	31.86%
<b>Medium Term Notes</b>	\$ 2,000,620	\$ 2,000,000	\$ 1,951,287	5.65%
<b>FDIC CDs</b>	\$ 5,139,897	\$ 5,145,000	\$ 4,933,019	14.53%
<b>Treasury Coupon Securities</b>	\$ 7,745,235	\$ 8,000,000	\$ 7,786,729	21.89%
<b>Portfolio:</b>	<b>\$ 35,383,144</b>	<b>\$ 35,652,844</b>	<b>\$ 35,072,476</b>	<b>100.00%</b>

Years To Maturity 1.13  
Weighted Average Yield 1.650%

\*Market Values obtained from US Bank Treasury Division

Holdings Report

City of Aliso Viejo

July 31, 2022

CUSIP	Issuer Coupon Rate	Maturity Date Call Date	Remaining Par Value	Settle Date Book Yield	Original Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port Gain/Loss	Moody/S&P Fitch	WAM Eff. Dur.
<b>Certificates of Deposit</b>										
29278TKG4	EnerBank 2.050%	08/08/2022	245,000.00	08/07/2019 2.05%	245,000.00 245,000.00	99.99 0.41%	244,984.57 2,408.05	0.69% -15.44	NR/NR NR	0.02 0.02
05580ASU9	BMW Bank 1.850%	10/11/2022	245,000.00	10/11/2019 1.85%	245,000.00 245,000.00	99.90 1.78%	244,752.06 1,390.79	0.69% -247.94	NR/NR NR	0.20 0.20
7954505W1	Sallie Mae Bank 1.850%	12/12/2022	245,000.00	12/13/2019 1.64%	244,642.30 244,642.30	99.76 2.07%	244,415.68 608.47	0.69% -226.63	NR/NR NR	0.37 0.37
949495AA3	Wells Fargo National Bank West 1.800%	12/13/2022	245,000.00	12/13/2019 1.81%	245,000.00 245,000.00	99.74 2.08%	244,371.09 229.56	0.69% -628.92	NR/NR NR	0.37 0.37
27002YEX0	EagleBank 1.550%	03/20/2024	245,000.00	03/20/2020 1.60%	244,510.00 244,510.00	97.34 3.27%	238,481.53 124.85	0.69% -6,028.47	NR/NR NR	1.64 1.61
05465DAK4	Axos Bank 1.650%	03/26/2024	245,000.00	03/26/2020 1.65%	245,000.00 245,000.00	97.47 3.27%	238,794.40 66.45	0.69% -6,205.61	NR/NR NR	1.65 1.62
15118RUV7	Celtic Bank 1.400%	04/17/2024	245,000.00	04/17/2020 1.40%	245,000.00 245,000.00	96.93 3.31%	237,485.36 140.96	0.69% -7,514.64	NR/NR NR	1.72 1.68
32110YPS8	First National Bank of America 1.250%	04/22/2024	245,000.00	04/23/2020 1.30%	244,522.25 244,522.25	96.65 3.33%	236,790.05 83.90	0.69% -7,732.20	NR/NR NR	1.73 1.70
15201QDF1	CenterState Bank 1.200%	04/30/2024	245,000.00	04/30/2020 1.25%	244,522.25 244,522.25	96.53 3.34%	236,491.40 749.10	0.69% -8,030.86	NR/NR NR	1.75 1.72
58404DGU9	Medallion Bank 1.200%	04/30/2024	245,000.00	04/30/2020 1.25%	244,522.25 244,522.25	96.53 3.34%	236,491.40 749.10	0.69% -8,030.86	NR/NR NR	1.75 1.72
538036JN5	Live Oak Banking 1.650%	08/28/2024	245,000.00	02/28/2020 1.69%	244,529.60 244,529.60	96.62 3.39%	236,724.39 343.34	0.69% -7,805.21	NR/NR NR	2.08 2.03
856285RU7	State Bank of India 2.000%	11/27/2024	245,000.00	12/06/2019 2.00%	245,000.00 245,000.00	96.96 3.40%	237,552.74 886.03	0.69% -7,447.27	NR/NR NR	2.33 2.26
61760A4F3	Morgan Stanley Private Bank 1.950%	12/12/2024	245,000.00	12/13/2019 2.00%	244,416.90 244,416.90	96.78 3.40%	237,118.60 654.45	0.69% -7,298.31	NR/NR NR	2.37 2.30
61690UUJ7	Morgan Stanley Bank 1.800%	02/27/2025	245,000.00	02/28/2020 1.85%	244,416.90 244,416.90	96.09 3.42%	235,411.44 1,872.74	0.69% -9,005.47	NR/NR NR	2.58 2.49
14042RPG0	Capital One Bank NA 1.600%	04/08/2025	245,000.00	04/09/2020 1.65%	244,412.00 244,412.00	95.37 3.44%	233,652.09 1,235.07	0.69% -10,759.91	NR/NR NR	2.69 2.61
33847E3J4	Flagstar Bank 0.900%	05/15/2025	245,000.00	05/15/2020 0.90%	245,000.00 245,000.00	93.30 3.47%	228,595.29 471.21	0.69% -16,404.71	NR/NR NR	2.79 2.75
866264DP6	Summit State Bank 0.850%	05/15/2025	245,000.00	05/18/2020 0.90%	244,402.20 244,402.20	93.17 3.48%	228,270.42 445.03	0.69% -16,131.78	NR/NR NR	2.79 2.75
89235MJS1	Toyota Financial Savings Bank 0.800%	06/30/2025	245,000.00	06/30/2020 0.73%	245,000.00 245,000.00	92.70 3.48%	227,115.25 177.21	0.69% -17,884.76	NR/NR NR	2.92 2.88
59013KLQ7	Merrick Bank 0.550%	12/30/2025	245,000.00	12/30/2020 0.55%	245,000.00 245,000.00	90.59 3.45%	221,937.42 118.13	0.69% -23,062.59	NR/NR NR	3.42 3.38

## Holdings Report

City of Aliso Viejo

July 31, 2022

City of Aliso Viejo Holdings Report - July 31, 2022										
CUSIP	Issuer Coupon Rate	Maturity Date Call Date	Remaining Par Value	Settle Date Book Yield	Original Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port Gain/Loss	Moody/S&P Fitch	WAM Eff. Dur.
<b>Certificates of Deposit</b>										
90348JR93	UBS Bank USA 0.950%	08/11/2026	245,000.00	08/11/2021 0.95%	245,000.00 245,000.00	90.40 3.42%	221,484.41 133.91	0.69% -23,515.59	NR/NR NR	4.03 3.93
38149MYB3	Goldman Sachs Bank 1.000%	08/11/2026	245,000.00	08/11/2021 1.00%	245,000.00 245,000.00	90.65 3.41%	222,099.36 1,147.81	0.69% -22,900.64	NR/NR NR	4.03 3.93
					<b>5,139,896.65</b>		<b>4,933,018.90</b>	<b>14.53%</b>		<b>2.06</b>
<b>Total Certificates of Deposit</b>			<b>5,145,000.00</b>	<b>1.43%</b>	<b>5,139,896.65</b>	<b>3.05%</b>	<b>14,036.16</b>	<b>-206,877.81</b>		<b>2.02</b>
<b>Corporate Bonds</b>										
594918BQ6	Microsoft 2.000%	08/08/2023 06/08/2023	500,000.00	12/06/2019 1.79%	503,635.00 503,635.00	98.99 2.97%	494,956.50 4,805.56	1.42% -8,678.50	Aaa/AAA AAA	1.02 0.96
30231GBC5	Exxon Mobil 2.019%	08/16/2024 07/16/2024	500,000.00	12/12/2019 1.95%	501,615.00 501,615.00	97.13 3.33%	485,673.50 4,626.88	1.42% -15,941.50	Aa2/AA- NR	2.05 1.95
037833DM9	Apple 1.800%	09/11/2024 08/11/2024	500,000.00	12/06/2019 1.92%	497,165.00 497,165.00	97.89 3.44%	489,448.00 3,500.00	1.41% -7,717.00	Aaa/AA+ NR	2.12 2.02
64952WDL4	New York Life 2.000%	01/22/2025	500,000.00	01/22/2020 2.08%	498,205.00 498,205.00	96.24 4.04%	481,209.00 250.00	1.41% -16,996.00	Aaa/AA+ AAA	2.48 2.38
					<b>2,000,620.00</b>		<b>1,951,287.00</b>	<b>5.65%</b>		<b>1.91</b>
<b>Total Corporate Bonds</b>			<b>2,000,000.00</b>	<b>1.93%</b>	<b>2,000,620.00</b>	<b>3.44%</b>	<b>13,182.44</b>	<b>-49,333.00</b>		<b>1.83</b>
<b>LAIF</b>										
9830007	LAIF 1.090%	08/01/2022	11,272,843.81	07/27/2022 1.09%	11,272,843.81 11,272,843.81	1.00 1.09%	11,272,843.81 0.00	31.86% 0.00	NR/NR NR	0.00 0.00
					<b>11,272,843.81</b>		<b>11,272,843.81</b>	<b>31.86%</b>		<b>0.00</b>
<b>Total LAIF</b>			<b>11,272,843.81</b>	<b>1.09%</b>	<b>11,272,843.81</b>	<b>1.09%</b>	<b>0.00</b>	<b>0.00</b>		<b>0.00</b>
<b>U.S. Agencies</b>										
313385H41	FHLB 0.000%	09/27/2022	2,000,000.00	06/28/2022 1.81%	1,990,900.00 1,990,900.00	99.63 2.93%	1,992,564.00 0.00	5.63% 1,664.00	P-1/A-1+ F1+	0.16 0.16
313385H74	FHLB 0.000%	09/30/2022	2,000,000.00	07/07/2022 1.94%	1,991,027.78 1,991,027.78	99.61 2.70%	1,992,194.00 0.00	5.63% 1,166.22	P-1/A-1+ F1+	0.17 0.17
3133ELZF4	FFCB 0.270%	11/14/2022	500,000.00	05/14/2020 0.29%	499,745.00 499,745.00	99.28 3.09%	496,417.00 288.75	1.41% -3,328.00	Aaa/AA+ AAA	0.29 0.28

Holdings Report

City of Aliso Viejo

July 31, 2022

CUSIP	Issuer Coupon Rate	Maturity Date Call Date	Remaining Par Value	Settle Date Book Yield	Original Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port Gain/Loss	Moody/S&P Fitch	WAM Eff. Dur.
<b>U.S. Agencies</b>										
3130AJ7E3	FHLB 1.375%	02/17/2023	500,000.00	02/21/2020 1.44%	499,080.00 499,080.00	99.17 2.94%	495,861.50 3,131.94	1.41% -3,218.50	Aaa/AA+ AAA	0.55 0.54
3130ASCC1	FHLB 2.000%	06/23/2023 12/23/2022	1,000,000.00	06/23/2022 2.00%	1,000,000.00 1,000,000.00	99.57 2.49%	995,714.00 2,111.11	2.83% -4,286.00	Aaa/AA+ AAA	0.90 0.70
3130A3VC5	FHLB 2.250%	12/08/2023	500,000.00	02/20/2020 1.44%	514,900.00 514,900.00	99.00 3.22%	495,022.00 1,656.25	1.46% -19,878.00	Aaa/AA+ AAA	1.36 1.32
3133ELNE0	FFCB 1.430%	02/14/2024	500,000.00	02/14/2020 1.47%	499,245.00 499,245.00	97.94 3.01%	489,700.00 3,316.81	1.41% -9,545.00	Aaa/AA+ AAA	1.54 1.49
3133ELG99	FFCB 0.375%	06/10/2024	500,000.00	06/10/2020 0.46%	498,220.00 498,220.00	95.65 3.09%	478,230.00 265.62	1.41% -19,990.00	Aaa/AA+ AAA	1.86 1.83
3133ELCP7	FFCB 1.625%	12/03/2024	235,000.00	12/09/2019 1.72%	233,926.05 233,926.05	97.22 3.16%	228,474.99 615.24	0.66% -5,451.06	Aaa/AA+ AAA	2.35 2.26
3137EAEX3	FHLMC 0.375%	09/23/2025	500,000.00	10/20/2020 0.48%	497,505.00 497,505.00	92.58 3.28%	462,904.50 666.67	1.41% -34,600.50	Aaa/AA+ AAA	3.15 3.08
3130ASD63	FHLB 3.250%	06/28/2027 06/28/2024	1,000,000.00	06/28/2022 3.25%	1,000,000.00 1,000,000.00	100.15 3.42%	1,001,515.00 2,979.17	2.83% 1,515.00	Aaa/AA+ AAA	4.91 3.02
					<b>9,224,548.83</b>		<b>9,128,596.99</b>	<b>26.07%</b>		<b>1.23</b>
<b>Total U.S. Agencies</b>			<b>9,235,000.00</b>	<b>1.73%</b>	<b>9,224,548.83</b>	<b>2.95%</b>	<b>15,031.56</b>	<b>-95,951.84</b>		<b>1.00</b>
<b>U.S. Treasuries</b>										
912828YF1	U.S. Treasury 1.500%	09/15/2022	500,000.00	12/12/2019 1.65%	497,949.22 497,949.22	99.91 1.80%	499,570.00 2,832.88	1.41% 1,620.78	Aaa/AA+ AAA	0.13 0.12
912796N96	U.S. Treasury 0.000%	11/03/2022	2,000,000.00	06/28/2022 1.97%	1,986,293.34 1,986,293.34	99.36 2.73%	1,987,114.00 0.00	5.61% 820.66	P-1/A-1+ F1+	0.26 0.27
912796T33	U.S. Treasury 0.000%	02/23/2023	2,000,000.00	06/29/2022 2.41%	1,968,863.62 1,968,863.62	98.43 2.84%	1,968,620.00 0.00	5.56% -243.62	P-1/A-1+ F1+	0.57 0.57
912828T91	U.S. Treasury 1.625%	10/31/2023	500,000.00	12/09/2019 1.62%	500,175.78 500,175.78	98.41 3.10%	492,051.00 2,053.33	1.41% -8,124.78	Aaa/AA+ AAA	1.25 1.22
91282CCF6	U.S. Treasury 0.750%	05/31/2026	1,000,000.00	06/13/2022 3.01%	915,976.56 915,976.56	92.65 3.24%	926,484.00 1,270.49	2.59% 10,507.44	Aaa/AA+ AAA	3.84 3.72
91282CCJ8	U.S. Treasury 0.875%	06/30/2026	1,000,000.00	06/29/2022 3.20%	913,125.00 913,125.00	92.95 3.23%	929,492.00 760.87	2.58% 16,367.00	Aaa/AA+ AAA	3.92 3.79
912828X88	U.S. Treasury 2.375%	05/15/2027	1,000,000.00	06/29/2022 3.20%	962,851.56 962,851.56	98.34 3.22%	983,398.00 5,033.97	2.72% 20,546.44	Aaa/AA+ AAA	4.79 4.46

## Holdings Report

City of Aliso Viejo

July 31, 2022

CUSIP	Issuer Coupon Rate	Maturity Date Call Date	Remaining Par Value	Settle Date Book Yield	Original Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port Gain/Loss	Moody/S&P Fitch	WAM Eff. Dur.
					7,745,235.08		7,786,729.00	21.89%		1.81
Total U.S. Treasuries			8,000,000.00	2.46%	7,745,235.08	2.90%	11,951.54	41,493.92		1.74
					35,383,144.37		35,072,475.70	100.00%		1.13
TOTAL PORTFOLIO			35,652,843.81	1.65%	35,383,144.37	2.39%	54,201.70	-310,668.73		1.04
TOTAL MARKET VALUE PLUS ACCRUED INTEREST							35,126,677.40			

Transaction Report

City of Aliso Viejo

July 01, 2022 - July 31, 2022

Transaction Date	Transaction Type	Security ID	Security Description	Maturity Date	Purchases	Redemptions	Interest	Deposits	Withdrawals
07/01/2022	Interest	538036JN5	LIVOAK 1.65 08/28/24	08/28/2024	-	-	332.26	-	-
07/07/2022	Purchase	313385H74	FHLB DISCOUNT NT	09/30/2022	-1,991,027.78	-	-	-	-
07/11/2022	Interest	90348JR93	UBS 0.95 08/11/26	08/11/2026	-	-	191.30	-	-
07/13/2022	Interest	949495AA3	WFC 1.8 12/13/22	12/13/2022	-	-	362.47	-	-
07/15/2022	Interest	9830007	LAIF		-	-	22,774.36	-	-
07/15/2022	Purchase	9830007	LAIF		-22,774.36	-	-	-	-
07/18/2022	Interest	15118RUV7	CELTIC 1.4 04/17/24	04/17/2024	-	-	281.92	-	-
07/20/2022	Interest	27002YEX0	EGBN 1.55 03/20/24	03/20/2024	-	-	312.12	-	-
07/22/2022	Interest	64952WDL4	NYLIFE 2 01/22/25	01/22/2025	-	-	5,000.00	-	-
07/22/2022	Interest	32110YPS8	FNAMER 1 1/4 04/22/24	04/22/2024	-	-	251.71	-	-
07/26/2022	Interest	05465DAK4	BOFI 1.65 03/26/24	03/26/2024	-	-	332.26	-	-
07/27/2022	Deposit		LAIF Deposit		-	-	-	2,500,000.00	-
<b>Grand Total:</b>					<b>-2,013,802.14</b>	<b>0.00</b>	<b>29,838.40</b>	<b>2,500,000.00</b>	<b>0.00</b>

California State Treasurer  
**Fiona Ma, CPA**



Local Agency Investment Fund  
 P.O. Box 942809  
 Sacramento, CA 94209-0001  
 (916) 653-3001

CITY OF ALISO VIEJO

DIRECTOR OF FINANCIAL SVCS/ CITY TREAS  
 12 JOURNEY, #100  
 ALISO VIEJO, CA 92656

**Account Number:** 98-30-007

July 2022 Statement

Effective Date	Transaction Date	Tran Type	Confirm Number	Web Confirm Number	Authorized Caller	Amount
7/15/2022	7/15/2022	QRD	1709811	N/A	SYSTEM	22,774.36
7/27/2022	7/27/2022	RD	1710938	1671236	ANN EIFERT	2,500,000.00

**Account Summary**

Total Deposit:	2,522,774.36	Beginning Balance:	8,750,069.45
Total Withdrawal:	0.00	Ending Balance:	11,272,843.81



# PMIA/LAIF Performance Report as of 08/10/22



## PMIA Average Monthly Effective Yields<sup>(1)</sup>

July	1.090
June	0.861
May	0.684

## Quarterly Performance Quarter Ended 06/30/22

LAIF Apportionment Rate <sup>(2)</sup> :	0.75
LAIF Earnings Ratio <sup>(2)</sup> :	0.00002057622201151
LAIF Fair Value Factor <sup>(1)</sup> :	0.987125414
PMIA Daily <sup>(1)</sup> :	0.99%
PMIA Quarter to Date <sup>(1)</sup> :	0.69%
PMIA Average Life <sup>(1)</sup> :	311

## Pooled Money Investment Account Monthly Portfolio Composition <sup>(1)</sup> 07/31/22 \$229.9 billion

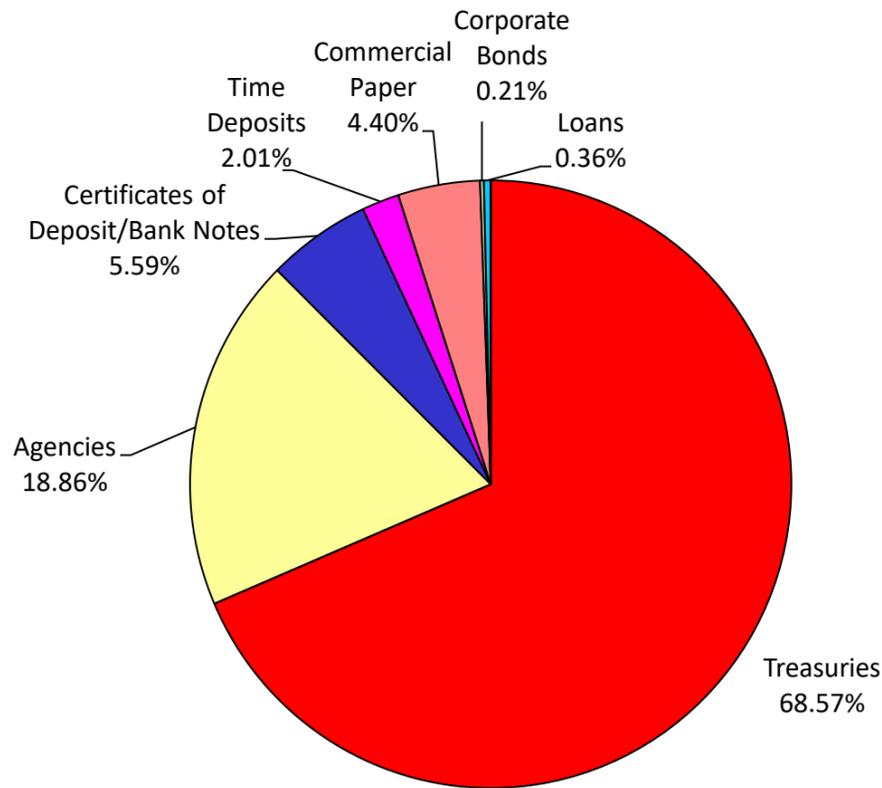


Chart does not include \$4,432,000.00 in mortgages, which equates to 0.002%. Percentages may not total 100% due to rounding.

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

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

Source:

<sup>(1)</sup> State of California, Office of the Treasurer

<sup>(2)</sup> State of California, Office of the Controller

# City of Aliso Viejo

## **AGENDA ITEM**



DATE: September 7, 2022  
TO: Mayor and City Council  
FROM: Ann Eifert, Director of Financial Services/City Treasurer  
SUBJECT: INVESTMENT POLICY FOR FISCAL YEAR 2022-23

---

### **Recommended Action:**

Adopt a Resolution approving the Investment Policy for Fiscal Year 2022-23 and rescinding Resolution No. 2021-23 in its entirety.

### **Fiscal Impact:**

The adoption of the Investment Policy will allow for the continual investment of the City's idle cash which will provide additional revenue to the City.

### **Background:**

California Government Code Section 53646 and best management practices dictate that local agencies prepare and update an investment policy on an annual basis. The City's Investment Policy complies with the California Government Code and the guidelines recommended by the State and California Municipal Treasurer's Association.

The investment policy states the goals of the City's investment activities, the types of investments allowed by the Government Code, and reporting requirements. The City's investment goals are, in order of priority, safety, liquidity, and yield. The purpose of the Investment Policy is to identify the policies and procedures that enhance opportunities for a prudent and systematic investment process and to organize and formalize investment-related activities.

### **Discussion:**

Submitted for Council's review and adoption is the FY 2022-23 Investment Policy, its accompanying resolution, and an administrative policy containing guidelines for investments and internal control. Proposed updates are being recommended to provide clarification, maintain consistency with current and best practices, and enhance opportunities for the City to achieve its investments goals as stated in the policy. Notable recommended changes are highlighted below:

- **Supranational Securities** - Supranational securities are defined as United States dollar denominated senior unsecured, unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development (IBRD or World Bank), International Finance Corporation (IFC), or Inter-American Development Bank (IADB). These organizations were established by international treaties, are headquartered in Washington D.C., and incorporated into U.S. Federal Law by Congressional Acts. California Government Code §53601(q) permits the securities of these three organizations to be incorporated into local agency investment portfolios. Securities eligible for investment shall have a maximum remaining maturity of five years or less and be eligible for purchase and sale within the United States. Supranational securities eligible for investment shall be rated "AA" or better from at least two NRSROs. Investments in supranational securities shall not exceed 20% of the City's investment portfolio.
- **Reporting** – Staff recommends revising the monthly Council treasurer's report to be submitted to Council within 45 days of the last day of the month, instead of the current 30 days. Although staff will continue to strive to submit reports within 30 days, increasing the deadline will provide flexibility in the event of a cancelled Council meeting or other unexpected delays.

**Attachments:**

1. Resolution Adopting FY 2022-23 Investment Policy
2. Investment Policy & Investment Guidelines, Strategy & Internal Control – Clean
3. Investment Policy & Investment Guidelines, Strategy & Internal Control – Redline
4. Resolution No. 2021-23

**RESOLUTION NO. 2022-XX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, REPEALING RESOLUTION NO. 2021-23, AND ADOPTING AN INVESTMENT POLICY FOR FISCAL YEAR 2022-23**

**WHEREAS**, Government Code Section 53600 et seq. sets forth the State of California's policy with regard to the importance of the solvency and creditworthiness of each individual local agency and the protection thereof; and

**WHEREAS**, the City of Aliso Viejo is a local agency subject to the provisions of Government Code Section 53600 et seq.; and

**WHEREAS**, Government Code Section 53646 requires local agencies, such as the City of Aliso Viejo to consider annually a statement of investment policy, after review and consideration at a public meeting; and

**WHEREAS**, at a regular public meeting of the City Council the Council considered a statement of investment policy for the City, entitled *City of Aliso Viejo Statement of Investment Policy for Fiscal Year 2022-23* attached hereto as Exhibit "A" and incorporated herein;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALISO VIEJO AS FOLLOWS:**

Section 1. The statement of investment attached hereto as Exhibit "A" entitled *City of Aliso Viejo Statement of Investment Policy for Fiscal Year 2022-23* is adopted as the City's Investment Policy.

Section 2. Resolution No, 2021-23 is hereby repealed

Section 3. This Resolution shall be effective July 1, 2022.

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

**PASSED, APPROVED AND ADOPTED** this 7th day of September, 2022.

\_\_\_\_\_  
Ross Chun  
Mayor

APPROVED AS TO FORM:

ATTEST:

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Scott C. Smith, City Attorney

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Mitzi Ortiz, MMC, City Clerk

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            ) ss.  
CITY OF ALISO VIEJO            )

I, MITZI ORTIZ, City Clerk of the City of Aliso Viejo, California, DO HEREBY CERTIFY that the foregoing is the original of Resolution No. 2022-\_\_ duly passed and adopted by the City Council of the City of Aliso Viejo at their regular meeting held on the 7th day of September, 2022, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
MITZI ORTIZ, MMC  
CITY CLERK

**CITY OF ALISO VIEJO**  
**STATEMENT OF INVESTMENT POLICY**  
**FOR FISCAL YEAR 2022-23**  
**AS ADOPTED SEPTEMBER 7, 2022**



**CITY COUNCIL**

**Mayor Ross Chun**  
**Mayor Pro Tem Richard Hurt**  
**Council Member Tiffany Ackley**  
**Council Member Dave Harrington**  
**Council Member Mike Munzing**

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## APPENDIX A: Glossary of Terms

## APPENDIX B: Qualified Broker/Dealers

## APPENDIX C: Administrative Policy: Investment Guidelines, Strategy, and Internal Control

## Statement of Investment Policy

This Statement of Investment Policy (“Policy”), as set forth by the City of Aliso Viejo (“City”), provides the guidelines for prudent investment of the City’s idle or reserve cash and outlines the policies essential to ensuring the safety and financial strength of the City’s investment portfolio.

This Policy is based on the principles of prudent money management and conforms to all applicable Federal and State Laws governing the investment of public funds. In instances in which the Policy is more restrictive than Federal or State Law, the Policy will supersede.

## Objectives

It is the policy of the City to invest public funds in a manner which will provide for the preservation of capital while meeting the daily cash flow requirements of the City and attaining a market average rate of return within an acceptable and defined level of risk.

The Policy has three primary objectives, in order of priority:

1. **Preservation of Capital (Safety)** – the protection of principal is the foremost consideration when undertaking investment decisions that affect public funds. The objective is to mitigate credit risk and interest rate risk.

### Credit Risk

Credit Risk is the risk of loss of principal due to the failure of the security issuer. Credit Risk can be mitigated by:

- Limiting investments to the safest types of securities.
- Pre-qualifying accountants, auditors, financial institutions, broker/dealers, financial advisors, and other outside consultants with which the City does business.
- Diversifying the investment portfolio so that potential losses are minimized.

### Interest Rate Risk

Interest rate risk is the risk that the market value of securities will fall due to a rise in general market interest rates. It is the policy of the City to hold individual securities to maturity in an effort to meet liquidity demands. Interest rate risk can be mitigated by:

- Holding individual securities to maturity - Structuring the investment portfolio so that securities mature to meet cash flow requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
- Employing a laddering strategy whereby staggering maturities of individual securities so that bonds come due in increments, assuring an overall liquidity pattern.
- Limiting maturities of individual securities and the average maturity of the overall portfolio.

2. **Liquidity** – the investment portfolio shall remain sufficiently liquid to meet all daily cash flow and operating requirements that may be reasonably expected or anticipated.
3. **Return or Yield** – attain a rate of return consistent with the primary objectives of safety and liquidity, throughout budgetary and economic cycles.

## Scope of Funds

The investment policy applies to all financial assets and investment activities of the City, except for proceeds of debt issuance. Debt proceeds shall be invested in accordance with the “Permitted Investments” provisions for each specific bond indenture.

The Policy applies to the following funds and is accounted for in the City’s annual audited financial statements.

- A. General Fund
- B. Special Revenue Funds
- C. Debt Service Funds
- D. Capital Improvement Funds
- E. Enterprise Funds
- F. Internal Service Funds
- G. Agency Funds

## Prudent Investor Standard

The standard to be used by investment officials shall be that of a “prudent person” and shall be applied in the context of managing all aspects of the City’s investment portfolio

### **The Prudent Investor Standard:**

Governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of sections 16429.1 and 53600 through 53684 of the California Government Code and considering individual investments as a part of an overall strategy, a trustee is authorized to acquire investments as authorized by law.

## Investment Philosophy

It is the investment philosophy of the City to make investment decisions based on an overall passive management style that embodies a prudent investor standard and such that investments are purchased to generally match expected future cash outflows and with the intent to hold until maturity.

Accordingly, the City’s conservative philosophy prohibits active trading and speculation; i.e., the purchase of securities with the intent to profit from favorable market changes in market prices or market conditions. Leveraging or borrowing money for the purpose of investing is specifically prohibited. However, the City may elect to sell a security prior to its maturity and

record a capital gain or loss in order to improve the quality, liquidity, or yield of the portfolio in response to market conditions or City needs.

## **Delegation of Authority**

The City's Resolution No. 2003-018 appoints the Director of Financial Services to also serve as City Treasurer. The Treasurer, or his or her designee, has the authority to manage the City's investment portfolio in accordance with California Government Code Sections 53600 and 53630 *et seq.* and all related State and Federal laws.

The Treasurer will provide prior written notification to the City Manager and City Council regarding the designation of responsibilities.

The Treasurer shall establish written procedures for the operation and management of the City's investment portfolio consistent with this investment policy. The procedures should include reference to safekeeping, repurchase agreements, wire transfer agreements, banking service contracts, collateral or depository agreements, competitive bid process, and due diligence. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction, except as provided under the terms of this policy and the investment procedures established by the Treasurer and approved by the City Manager.

The City may also engage Securities and Exchange Commission registered external investment advisor to manage the City's investment program.

## **Public Trust**

All participants in the investment process shall act as custodians of public funds. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of public trust. In a diversified portfolio, it must be recognized that occasional measured losses are inevitable and must be considered in the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

## **Ethics and Conflicts of Interest**

Elected officials and employees of the City involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial decisions under the Political Reform Act and Government Code Section 1090 *et seq.* Elected officials and employees shall disclose to the City Manager any material interests in financial institutions that conduct business with the City, and they shall further disclose any personal investment position or financial asset that could be related to the performance of the City's investment program. Elected officials and employees shall subordinate their personal investment transactions to those of the City particularly with regard to the time of purchases and sales.

Any firm proposing to provide any type of investment service to the City shall acknowledge their familiarity with the provisions of the Political Reform Act, Government Code Section 81000 *et seq.* and CA Code of Regulations 18110 *et seq.* and the provisions limiting contractual conflicts of interest under Government Code Section 1090 *et seq.* Any firm proposing to provide any type of investment service to the City shall also acknowledge their familiarity with and agree to abide by any Federal or State law, regulation, rule, or policy pertaining to or limiting campaign contributions by such firms, their employees, spouses, or agents.

All persons, firms, broker/dealers, financial institutions, and advisors providing investment services or bond issue assistance shall disclose to the City Manager and the Treasurer all fee sharing, fee-splitting, and commission arrangements with other entities or persons prior to the City agreeing to buy an investment or issue bonds.

## Internal Investment Controls

The Treasurer will implement and maintain a system of internal investment controls and segregate responsibilities of investment functions in order to prevent fraud, theft, loss of principal, loss of control over funds, inaccurate reporting, and negligence.

The Treasurer will assign designee(s) to assist in carrying out these functions and will establish an Oversight Reviewer function that may be carried out by a designated member of staff, independent individuals, or independent expert contractor to perform specified tasks.

In addition to the specified requirements placed on investment types, quality, maturity, and diversification, further controls will include:

- **Safekeeping of Securities**

To protect against losses caused by the collapse of individual securities dealers, all securities owned by the City are required to be held by a third-party safekeeping institution. Third-party safekeeping institutions may not act as custodians for any securities which that institution has issued or sold to the City.

Collateral must be held at safekeeping, as defined in the Safekeeping and Custody section of the Policy.

Payment procedures for all securities transactions will be Delivery v. Payment (DVP)

- **Competitive Bidding of Investments**

The City's investment procedures require that approved broker/dealers compete for investment purchases and sales in order for the City to obtain the highest yield available in the market and to ensure that investment transactions are free from favoritism.

Qualified Bids will be required for purchase of all investment transactions. The Treasurer shall select the best bid and is required to keep a record of each investment transaction. The Treasurer will rotate the purchase of investments among the pool of qualified broker/dealers.

If the City utilizes an external investment advisor, the advisor shall send its approved list of broker/dealers to the City annually and follow its policies and procedures for competitive bidding.

- **Annual Management Review and Audit**

An annual audit of the City's Investment Policy, practices, procedures, and portfolio status will be conducted by an independent auditor of all items including, but not limited to, items specified in the Audit Checklist provided in the City's Procedure Manual. The auditor will provide the City with written observations and recommendations regarding the adequacy of investment controls.

- **Segregated Investment Execution, Recordkeeping and Reporting**

An independent member of City staff will record the Treasurer's investment records or confirmations to the City's general ledger. In addition, independent staff will

perform the monthly reconciliation of bank, broker/dealer, and safekeeping confirmations.

- **Secondary Approval Required**

The City Manager will review and approve the establishment of investment accounts, broker/dealer, and financial institution relationships and any agreements or contracts related to investments or investment related activity.

- **Wire Transfer Controls**

All City wire transfers will be executed in accordance with a written agreement specifying control procedures required for wire transfers of funds, including the establishment of repetitive wires to pay for securities transactions with approved securities dealers as well as any other routine money transfers. All other non-repetitive wires require City Manager approval prior to release.

## **Investment Policy Adoption**

The City Council's primary responsibilities over the investment function includes establishing investment policies, annually reviewing such policies, appointing a City Treasurer, reviewing monthly investment reports issued by the Treasurer, authorizing bond documents and financing transactions, and adopting recommended changes to the City's Investment Policy as necessary.

The City's investment policy shall be adopted by resolution of the City Council. The policy shall be reviewed annually by the City Council and any modifications made thereto must be approved the City Council.

## **Indemnification of Investment Officials**

Any investment officer exercising his/her authority with due diligence, prudence, and care and in accordance with the Investment Policy and all written procedures shall be relieved of personal responsibility and liability for an individual security's losses or losses incurred by the portfolio. However, any investment officer also bears the responsibility of reporting deviations from expectations in a timely manner to City Council and appropriate action is taken to control adverse developments and mitigate loss of principal.

## **Investment Portfolio Compliance**

Should the portfolio, for any reason, fall out of compliance with this Investment Policy, immediate liquidation of securities in order to bring the portfolio back into compliance will not be required. However, the Treasurer must take action to bring the portfolio into compliance within 12 months from the date the portfolio was determined to be in non-compliance with the provisions of this Investment Policy. Additionally, adequate disclosure of all instances of noncompliance, and the efforts undertaken to bring the portfolio into compliance, must be made on the monthly Treasurer's Report.

## Reporting

The Treasurer shall submit a “Monthly Treasurer’s Report” to the City Manager and City Council within 45 days following the last day of the month to be agendaized for official action at a regular Council meeting thereafter. These reports shall disclose information relevant to the risk characteristics of the City’s investment portfolio and shall include the following information:

### Monthly Treasurer’s Report

- A. Cash receipts, disbursements, and balances in total.
- B. A summary of the investment portfolio.
- C. An asset list showing the issuer, type of investment, par value, maturity date, and interest rate.
- D. Average rate of return on the City’s investment portfolio.
- E. Maturity aging grouped by type of investment.
- F. Diversification of the investment portfolio.
- G. A listing of individual investment transactions during the month, as required by Government Code section 53607.
- H. A statement of ability to meet upcoming operating expenses and spending requirements for the next six months.
- I. A statement of compliance with the Investment Policy, including a schedule of any transactions or holdings which do not comply with this policy or with the California Government Code, including a justification for their presence in the portfolio, and a timetable for resolution.

### Annual Report

The annual report will be prepared by the City Treasurer and submitted to the City Manager each fiscal year to ensure consistency. The annual report will include an overall analysis of the portfolio and shall suggest policies and improvements to enhance the City’s investment program. These enhancements will be annually considered by City Council and the authority to amend the Policy rests with City Council.

## Authorized and Suitable Investments

Investment of City funds is governed by the California Government Code Sections 53600, 53601, 53601.5, 53601.6, 53635, and 53635.5 *et seq.* Within the context of the limitations, the following investments are authorized, as further limited herein:

Matrix of Suitable Investment Options and Restrictions				
Investment Type:	Maximum Maturity:	Maximum percentage of Portfolio:	Maximum Par Value per Issuer:	Credit Quality and Requirements:
U.S. Treasury Bills, Notes and Bonds	5 Years	100 percent	N/A	Explicit Full Faith and Credit Guarantee of United States Government
Federal Agency Obligations	5 Years	60 percent	35% per agency	Implied Guarantee of the United States Government
Bankers' Acceptances (BA's)	180 Days	20 percent	5% per issuer	Domestic banks only - deemed eligible for purchase by the Federal Reserve Bank
Certificates of Deposit or Time Deposits* (CD's)	5 Years	30 percent	5% per issuer	Senior debt only from top 15 percent of peer group rated banks, savings & loans and credit unions. Defined by Section 5102 of the Financial Code.
Negotiable Certificates of Deposit	5 Years	30 percent	\$250,000	Brokered CD's insured by FDIC for a maximum of \$250,000 per issuer.
Local Agency Investment Fund (LAIF)	N/A	100 percent	\$75,000,000 (per entity)	Treasurer will review investment policies and practices to determine if consistent with the Policy
Commercial Paper	270 Days	20 percent	5% of portfolio	Highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO)
Money Market Mutual Funds	N/A	10 percent	10% per fund (SEC Registered) (\$1.00 NAV)	Highest rating from NRSRO. Must also comply with Govt. Code 53601(l) and 53601.6 (b) and the weighted average to maturity is less than 180 days.
Repurchase Agreements*	92 Days	20 percent	20%	Signed security loan agreement on file. Underlying securities maintained at 102% of original value. Reverse repurchase agreements are specifically not authorized under the Policy.
Supranational Securities	5 Years	20 percent	10 % per issuer	United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance

				Corporation, or Inter-American Development Bank; rated AA or better by two NRSROs.
Medium Term Corporate Notes	5 Years	30 percent	5% of portfolio	Rated "A-" or better by a nationally recognized rating service. Code 53601 (k).

\* Denotes a collateral requirement either initially, or at a pre-determined threshold. Please refer to Collateral section of the Policy for specific requirements.

## Ratings and Rating Agencies

When possible, two ratings should be obtained to determine if an investment meets the Policy’s quality standard. Currently under this Policy, only Standard and Poor’s (S&P) and Moody’s Investor Service (Moody’s) are recognized investment ratings providers, and the City has established the following minimum standards to be applied at time of purchase and for reporting purposes:

Investment Type:	Standard & Poor’s	Moody’s
Banker’s Acceptances	<b>A1</b>	<b>P1</b>
Commercial Paper	<b>A1</b>	<b>P1</b>
Certificates of Deposit	<b>AA-</b>	<b>Aa3</b>
Money Market Mutual Funds	<b>AAA</b>	<b>Aaa</b>
Medium Term Corporate Notes	<b>A-</b>	<b>A3</b>
Supranational Securities	<b>AA</b>	<b>Aa2</b>
Repurchase Agreement – Provider	<b>AA</b>	<b>Aa</b>

## Prohibited Investments

State and Federal laws notwithstanding, any investment not specifically described herein including, but not limited to, reverse repurchase agreements, derivatives, options, futures, zero coupon bonds, inverse floaters, range notes, first mortgages or trust deeds, collateralized mortgage obligations (CMO’s), limited partnerships, real estate investments trusts (REIT’s), open-end mutual funds, closed-end mutual funds, mutual funds with a weighted average maturity greater than 180 days, unregulated and/or uninsured investment pools, common stock, preferred stock, commodities, precious metals, securities with high price volatility, limited marketability (less than three active bidders), securities that may default on interest payments, and any other speculative investment deemed inappropriate under the Prudent Investor standard are strictly prohibited. In addition, any investment transaction that might impair public confidence in the Aliso Viejo City government is to be avoided.

## Collateralization

Collateral for Certificates of Deposit (CD) and Negotiated Certificates of Deposit (NCD) must comply with Government Code, Chapter 4, Bank Deposit Law Section 16500 *et seq.* and the Savings and Loan and Credit Union Deposit Law Government Code Section 16600 *et seq.* In addition, if the CD is not FDIC insured or goes over the FDIC \$250,000 limit, collateral is required equal to 100 percent of principal.

Collateral for Repurchase Agreements shall be 102 percent of market value of principal and accrued interest. Collateral can be either US Treasury securities or Federal Agency securities. This will provide an addition level of security due to inevitable changes in market conditions.

Collateral will always be held by an independent third party with whom the City has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the City and retained. The right of collateral substitution is granted within the parameters and constraints of this Policy.

## Investment Pools

Government sponsored investment pools (Pools) are permitted under California Government Code Section 53601 *et seq.* and are an excellent short-term investment option for cash management facilities. These pools can provide safety, liquidity, and yield in a single diversified investment. However, thoughtful investigation and due diligence are required both initially at time of purchase and on an ongoing basis with analysis to determine that the investment pool is being managed in a manner consistent with the objectives of the Policy. The following guidelines include, but are not limited to:

- The Pool shall have attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations, or shall be insured by a municipal insurance corporation.
- The Pool marks to market weekly at a minimum.
- The Pool provides comprehensive, timely monthly reports which include detailed transaction listings, report realized and unrealized gains and losses, provide accurate market values for each security, provide quality rating for individual securities, take delivery DVP, provide third party safekeeping of all investments, and for whom an audit is conducted annually by an independent auditor with no relationship to the Pool.

## Money Market Mutual Funds

Money market mutual funds provide another safe, liquid, and diversified investment option for the City's surplus capital. However, certain conditions need to be met both initially and on an ongoing basis. The money market may only invest in US Government securities permitted under this policy and under California Government Code Section 53601 *et seq.* with final stated maturities of one year or less "Government Money Market Funds."

In order to be an eligible money market investment under this section, the primary objective of the money market, as stated in the funds' prospectus, is to maintain a constant \$1.00 Net Asset Value (NAV). The following additional guidelines include, but are not limited to:

- The money market only invests in US Government securities, and the weighted average maturity of the portfolio is less than 180 days.

- The fund shall be registered with the SEC.
- The money market shall have attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations and shall maintain these ratings for the duration of the investment.

## **Maturity Limits**

The longer the maturity of securities, the greater the market volatility. Therefore, the maximum maturity limit for any given security in the investment portfolio shall not exceed five (5) years.

It is also important to note that specific investments, detailed under the “Authorized and Suitable Investments” section, may be restricted to a shorter maturity.

The weighted average life of the portfolio may not exceed three (3) years in duration.

At a minimum, 15 percent of the portfolio shall remain liquid, accessible on demand by the City without restriction or penalty.

The investment portfolio shall be structured for liquidity purposes; therefore, 40 percent of the portfolio shall mature within 365-days .

Maturities will be selected based on a sufficiently detailed cash flow projection that facilitates selecting investment maturity dates to approximately match the projected dates of budgeted expenditures. Once cash flow needs are matched, maturities are selected based on a “laddering strategy” and the shape of the yield curve.

Extensions in the maximum maturity and average weighted life of the portfolio must be supported by detailed cash flow forecasts demonstrating the adequacy of cash from maturing assets to meet one hundred twenty-five percent (125%) of monthly expenditures for each prospective quarter, ending with the current maximum including capital expenditures funded on a pay-as-you-go basis. Recommendations to extend maturities must be reviewed and approved by the City Manager and City Council.

## **Qualifications for Financial Institutions and Broker/Dealer’s**

The Treasurer will maintain a list of qualified financial institutions and broker/dealers authorized to transact business with the City, as stated in Appendix “B”.

If the City utilizes a SEC registered external investment advisor, the advisor shall maintain a list of authorized broker-dealers and complete the appropriate due diligence required by the SEC. The external investment advisor may use its own list of approved broker/dealers and financial institutions for investment purposes on behalf of the City. The investment advisor shall submit the list of approved broker/dealers to the Finance Director/City Treasurer on an annual basis. The Finance Director/City Treasurer may restrict the use of a broker/dealer which may be deemed unsuitable.

The financial entities eligible to transact investment business with the City are:

I. Federal Reserve Bank:

Direct purchase of U.S. Treasury Bills, Notes, and Bonds using primary government dealers as designated by the Federal Reserve are exempt from quality requirements and are encouraged due to commission or mark-up discounts.

II. Nationally or State Chartered Banks, Savings and Loans, and Credit Unions:

The City may purchase investments offered from Banks, Savings and Loans, and Credit

Unions provided the institutions are:

- Nationally or State Chartered Institutions.
- Registered as investment securities dealers.
- Ranked in the top 15 percent of institutions within their respective peer group.
- The signatures of two individuals shall be required for the opening and closing of any bank account (the Treasurer, City Manager, Mayor, or Mayor Pro Tem). The Accounting Officer, who is independent of the investment function, shall keep a record of all opened and closed accounts. On an annual basis, the Accounting Officer shall provide a list of accounts to the independent auditor.

### III. Broker/Dealers:

The City will purchase investments from primary dealers whenever possible. However, if an investment deemed appropriate for the portfolio is not available through the primary market, then the Treasurer may use an authorized broker/dealer from the pre-approved list of broker/dealers on record.

For a broker/dealer to be considered for placement on the pre-approved list, they must comply with the following:

- Primary or Regional dealers that qualify for SEC Rule 15c3-1
- Provide audited financial statements from the two most frequent years
- A statement certifying that the institution has reviewed the City's Investment Policy and California Government Code Section 53600 *et seq.* and that all securities offered to the City shall comply fully with all provisions of the Policy and the California Government Code.
- The signatures of two individuals shall be required for the opening and closing of any broker/dealer account (the Treasurer, City Manager, Mayor or Mayor Pro Tem). The Accounting Officer, who is independent of the investment function, shall keep a record of all opened and closed accounts. On an annual basis, the Accounting Officer shall provide a list of accounts to the independent auditor.
- Settlement of securities traded through qualified broker/dealers shall occur trade date plus one or two days (depending upon security type), the current industry standard. New issue securities may have longer settlements, but none shall be greater than three weeks.

The Treasurer is responsible for ensuring that settlement occurs in a timely matter and that execution confirmations reflect accurate trade data. In addition, investment transactions are required to be Delivery v. Payment (DVP).

## Diversification Guidelines and Risks

The City recognizes diversification is an investment strategy that will mitigate risk in the investment portfolio. The City's investment portfolio shall be diversified to avoid incurring unreasonable and avoidable risks with regard to specific investment types. Within investment types, the City shall also maintain a mix of securities to avoid concentrations within individual financial institutions, geographic areas, industry types, and maturities.

The City will only invest in fixed rate, fixed maturity securities and, with the exception of U.S. Treasury securities or the Local Agency Investment Fund (LAIF), no more than 60 percent of the investment portfolio shall be invested in any single investment type or financial institution.

## **Safekeeping and Custody**

All security transactions, including collateral for repurchase agreements and certificates of deposit, shall be transacted on a Delivery vs. Payment (DVP) basis. This means that the securities shall be delivered to the City or the City's designated custodian upon receipt of payment by the City.

All securities that may be purchased, including collateral, shall be held by a third-party custodian designated by the Treasurer whenever possible. These securities shall be held in the City's name and control, and the third-party custodian shall be evidenced by safekeeping receipts. The third-party custodian shall send the City, on a monthly basis, a summary of safekeeping assets, and this statement shall be reconciled to the City's records on a monthly basis. Securities held in custody for the City shall be independently audited on an annual basis to verify investment holdings.

## **Performance Standards and Evaluation**

Investment performance is continually monitored and evaluated by the City Treasurer. Investment activity reports are generated on a monthly basis for presentation to the City Manager and City Council.

The weighted average maturity of the pooled portfolio shall not exceed three years and shall be designated to attain a market average rate of return. The market average rate of return will be determined by a custom benchmark that represents the prominent and persistent characteristics of the portfolio.

An annual audit of the City's Investment Policy, practices, procedures, and portfolio status will be conducted by an independent auditor of all items including, but not limited to, items specified in the Audit Checklist provided in the City's Procedure Manual. The auditor will provide the City Manager and City Council with written observations and recommendations regarding the adequacy of investment controls.

## **Qualifications and Continuing Education**

The City Treasurer shall be a City employee or contract employee. The Treasurer shall be selected on the basis of educational background and experience relevant to the Treasury function.

The City recognizes the need for and is committed to providing ongoing education specific to the investment function for the Treasurer and other City staff and officials involved in the investment process.

## GLOSSARY OF TERMS

**Accrued Interest** - Interest earned but not yet received.

**Active Deposits** - Funds which are immediately required for disbursement.

**Agencies** - Federal agency securities and/or Government-sponsored enterprises.

**Amortization** - An accounting practice of gradually decreasing (increasing) an asset's book value by spreading its depreciation (accretion) over a period of time.

**Asking Price** - The price a broker/dealer offers to sell securities. See Offer

**Bankers' Acceptance (BA)** - A "draft" or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**Basis Point** - One basis point is one hundredth of one percent (.01).

**Bear Market** - A period of generally pessimistic attitudes and declining market prices.

**Bid** - The price offered by a buyer of securities. (When you are selling securities, you ask for a bid.) See Offer.

**Bond** - A financial obligation for which the issuer promises to pay the bondholder a specified stream of future cash flows, including periodic interest payments and a principal repayment.

**Book Value** - The value at which a debt security is shown on the holder's balance sheet. Book value is acquisition cost less amortization of premium or plus accretion of discount.

**Broker** - A broker brings buyers and sellers together for a commission.

**Bull Market** - A period of generally optimistic attitudes and increasing market prices.

**Callables** - Securities that the issuer has the right to redeem prior to maturity.

**Certificate of Deposit** - A time deposit with a specific maturity, evidenced by a certificate. Large-denomination CD's are typically negotiable. CD's may be eligible for FDIC insurance.

**Collateral** - Securities, evidence of deposit, or pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposit of public moneys.

**Commercial Paper** - Short-term, unsecured promissory notes issued by a corporation to raise working capital. These negotiable instruments are purchased at a discount to par value or at par value with interest bearing.

**Comprehensive Annual Financial Report (CAFR)** - The official annual financial report for the City. It includes government-wide and fund financial statements prepared in conformity with Generally Accepted Accounting Principals (GAAP).

**Constant Maturity Treasury (CMT)** - An average yield of a specific Treasury maturity sector for a specific time frame, or an index of the average yield on United States Treasury securities adjusted to a constant maturity. This is a market index for reference of past direction of interest rates for the given Treasury maturity range.

**Coupon** - The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value.

**Credit Analysis** - A critical review and appraisal of the economic and financial conditions or of the ability to meet debt obligations.

## GLOSSARY OF TERMS (continued)

**Current Yield** - The interest paid on an investment expressed as a percentage of the current price of the security.

**Custody** - A banking service that provides safekeeping for the individual securities in a customer's investment portfolio under a written agreement which also calls for the bank to collect and pay out income, to buy, sell, receive, and deliver securities when ordered to do so by the principal.

**Debenture** - A bond secured only by the general credit of the issuer.

**Delivery v. Payment (DVP)** - Delivery of securities with a simultaneous exchange of payment for the securities.

**Demand Deposit Account** - Accounts whose balance is available to meet immediate cash needs (maturities up to 7 days).

**Derivatives** - (1) Financial instruments whose return profile is linked to, or derived from, the security and may include a leveraging factor, or (2) financial contracts based upon notional amount whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities, or commodities).

**Discount** - The difference between the cost of a security and its value at maturity when quoted at lower than face value.

**Discount Securities** - Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U. S. Treasury Bills.

**Diversification** - Dividing investment funds among a variety of securities offering independent return and risk profiles.

**Duration** - The weighted average maturity of a bond's cash flow stream, where the present value of the cash flows serves as the weights; the future point in time at which, on average, an investor has received exactly half of the original investment in present value terms; a bond's zero-coupon equivalent; the fulcrum of a bond's present value cash flow time line.

**Fannie Mae** - Trade name for the Federal National Mortgage Association (FNMA).

**Federal Credit Agencies** - Agencies of the Federal Government set up to supply credit to various classes of institutions and individuals, e.g., Savings and Loans, small business firms, students, farmers, farm cooperatives, and exporters.

**Federal Deposit Insurance Corporation (FDIC)** - Insurance provided to customers of a subscribing bank, which guarantees deposits to a set limit (currently \$100,000) per account.

**Federal Funds Rate** - The rate of interest at which Federal funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**Federal Home Loan Banks (FHLB)** – Government-sponsored wholesale banks which lend funds and provide correspondent banking services to member commercial banks, thrifty institutions, credit unions, and insurance companies. The mission of the FHLBs is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

## GLOSSARY OF TERMS (continued)

**Federal Home Loan Mortgage Corporation (FHLMC)** - The FHLMC was created under the Federal Home Loan Mortgage Act, Title III of the Emergency Home Finance Act of 1970 as a stockholder-owned government-sponsored enterprise. Freddie Mac, as the corporation is called, is charged with providing stability and assistance to the secondary home mortgage market by buying first mortgages and participation interests and reselling these securities in the form of guaranteed mortgage securities. Although agency obligations are not explicitly guaranteed by the federal government, the rating agencies believe that in the unlikely event of financial difficulties, the federal government will support the agency to the extent necessary to provide for full and timely payment on their securities.

**Federal National Mortgage Association (FNMA)** - FNMA, like GNMA, was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**Federal Open Market Committee (FOMC)** - Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

**Federal Reserve System** - The central bank of the U. S. which consists of a seven-member Board of Governors, 12 regional banks, and 5,700 commercial banks that are members.

**Fed Wire** - A wire transmission service established by the Federal Reserve Bank to facilitate the transfer of funds through debits and credits of funds between participants within the Fed system.

**Freddie Mac** - Trade name for the Federal Home Loan Mortgage Corporation (FHLMC).

**Ginnie Mae** - Trade name for the Government National Mortgage Association (GNMA).

**Government National Mortgage Association (GNMA)** - Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by the full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA, or FmHA mortgages. The term "pass-throughs" is often used to describe Ginnie Maes.

**Inactive Deposits** - Funds not immediately needed for disbursements.

**Interest Rate** - The annual yield earned on an investment, expressed as a percentage.

**Investment Agreements** - An agreement with a financial institution to borrow public funds subject to certain negotiated terms and conditions concerning collateral, liquidity, and interest rates.

## GLOSSARY OF TERMS (continued)

**LAIF (Local Agency Investment Fund)** - A special fund in the State Treasury which local agencies may use to deposit funds for investment. There is no minimum investment period, and the minimum transaction is \$5,000, in multiples of \$1,000 above that, with a maximum balance of \$75,000,000 for any agency. It offers high liquidity because deposits can be converted to cash in 24 hours and no interest is lost. All interest is distributed to those agencies participating on a proportionate share basis determined by the amounts deposited and the length of time they are deposited. Interest is paid quarterly. California Government Code §16429.3 states, in part:

"money placed with the State Treasurer for deposit in the Local Agency Investment Fund by cities, counties, or special districts shall not be subject to impoundment or seizure by any state official or state agency."

**Liquidity** - Refers to the ability to rapidly convert an investment into cash with minimal risk of losing some portion of principal and/or interest.

**Local Government Investment Pool (LGIP)** - The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

**Market Value** - The price at which a security is trading and could presumably be purchased or sold.

**Master Repurchase Agreement** - A written contract covering all future transactions between the parties to repurchase and/or reverse repurchase agreements that establishes each party's rights in the transactions. A master agreement will specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

**Maturity** - The date upon which the principal or stated value of an investment becomes due and payable.

**Medium Term Corporate Notes** - Unsecured promissory notes issued by a corporation organized and operating in the United States. These are negotiable instruments and are traded in the secondary market. Medium term corporate notes can be defined as extended maturity commercial paper. Local agencies are restricted by the Government Code to investments in corporations rated in the top three note categories by Moody's Investors Service, Inc., and/or Standard and Poor's Corporation. For medium term notes, eligible purchases consist of instruments that have a rating of "A" or better by both Moody's Investors Service, Inc., and Standard and Poor's Corporation.

**Money Market** - The market in which short-term debt instruments (bills, commercial paper, banker's acceptances, etc.) are issued and traded.

**Negotiable Certificates of Deposit** - Unsecured obligations of the financial institution, or bank, bought at par value with the promise to pay face value plus accrued interest at maturity. They are high-grade negotiable instruments, paying a higher interest rate than regular certificates of deposit. The primary market issuance is in multiples of \$1,000,000; the secondary market usually trades in denominations of \$500,000, although smaller lots are occasionally available. As a matter of practice, only the ten largest U.S. banks where there is a secondary market established for continued liquidity would be considered for investment.

## GLOSSARY OF TERMS (continued)

**NRSRO** - Nationally recognized statistical-rating organization

**New Issue** - Term used when a security is originally "brought" to market.

**Offer** - The price asked by a seller of securities. (When you are buying securities, you ask for an offer.) See Asking Price and Bid.

**Open Market Operations** - Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserve into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**Paper Gain or Loss** - Term used for unrealized gain or loss on securities being held in a portfolio based on comparison of current market quotes and their original cost. This situation exists as long as the security is held while there is a difference between cost value (book value) and the market value.

**Perfected Delivery** - Refers to an investment where the actual security or collateral is held by an independent third party representing the purchasing entity.

**Portfolio** - Collection of securities held by an investor.

**Primary Dealer** - A group of government securities dealers that submit daily reports of market activity and security positions held to the Federal Reserve Bank of New York and are subject to its informal oversight.

**Prudent Person Rule** - An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state - the so-called legal list. In other states, the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**Purchase Date** - The date in which a security is purchased for settlement on that or a later date.

**Qualified Public Depositories** - A financial institution that does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less approved by the Public Deposit Protection Commission to hold public deposits.

**Rate of Return** - The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

**Repurchase Agreement (RP or REPO)** - A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, or increasing bank reserves.

## GLOSSARY OF TERMS (continued)

**Reverse Repurchase Agreement (Reverse REPO)** - A transaction where the seller (City) agrees to buy back from the buyer (bank) the securities at an agreed upon price after a stated period of time.

**Risk** - Degree of uncertainty of return on an asset.

**Safekeeping** - See Custody.

**Secondary Market** - A market made for the purchase and sale of outstanding issues following the initial distribution.

**Securities and Exchange Commission** - Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**SEC Rule 15(C)3-1** - See Uniform Net Capital Rule.

**Settlement Date** - The date on which a trade is cleared by delivery of securities against funds.

**Spread** - a) The yield or price difference between the bid and offer on an issue; b) the yield or price difference between different issues.

**Structured Notes** - Notes issued by government-sponsored enterprises (FHLB, FNMA, etc.) and corporations that have imbedded options (e.g., call features, step-up coupons, floating rate coupons, derivative-based returns) in their debt structure. Their market performance is impacted by the fluctuation of interest rates, the volatility of the imbedded options, and shifts in the shape of the yield curve.

**Supranational** - A supranational entity is formed by two or more central governments with the purpose of promoting economic development for the member countries. Supranational institutions finance their activities by issuing debt, such as supranational bonds. The three U.S. based supranationals are International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank.

**Swap** - The sale of one issue and the simultaneous purchase of another for some perceived advantage.

**Treasury Bills** - A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

**Treasury Bonds** - Long-term coupon-bearing U. S. Treasury securities issued as direct obligations of the U. S. Government and having initial maturities of more than ten years.

**Treasury Notes** - Medium-term coupon-bearing U. S. Treasury securities issued as direct obligations of the U. S. Government and having initial maturities from two to ten years.

**Uniform Net Capital Rule** - Securities and Exchange Commission requirement that member firms, as well as nonmember broker-dealers in securities, maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

**U.S. Government Agencies** - Instruments issued by various U.S. Government Agencies, most of which are secured only by the credit worthiness of the particular agency.

**Yield** - The rate of annual income return on an investment, expressed as a percentage. It is obtained by dividing the current dollar income by the current market price of the security.

*Appendix A*

**Yield to Maturity** - The rate of income return on an investment, minus any premium or plus any discount, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond, expressed as a percentage.

## QUALIFIED BROKER/DEALERS

The City has qualified the following Broker/Dealer's:

- Cantella & Co. Inc
- Great Pacific Securities
- Higgins Capital
- Morgan Stanley
- Multi-Bank Securities, Inc
- Mutual Securities, Inc
- Raymond James & Associates, Inc.
- Time Value Investments
- UBS Financial Services, Inc
- Wedbush Securities

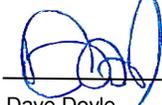
## **ADMINISTRATIVE POLICY**

### **Investment Guidelines, Strategy, and Internal Control**



# City of Aliso Viejo

## ADMINISTRATIVE POLICY

SUBJECT	APPROVED BY:	PROCEDURE NO.	EFF. DATE	PAGE
<b>INVESTMENT GUIDELINES, STRATEGY AND INTERNAL CONTROL</b>	 Dave Doyle CITY MANAGER	<b>11</b>	<b>7/1/2015 Rev 7/1/2017</b>	<b>1 of 4</b>

### PURPOSE

The purpose of this policy is to establish a framework for the investment of surplus City funds within the established internal control procedures for treasury functions.

### POLICY

#### INVESTMENT GUIDELINES AND STRATEGY

#### GUIDELINES

1. Investment Transaction - Every investment transaction must be authorized and reviewed by the Director of Finance/City Treasurer or his/her designee.
2. Pooled Cash - Whenever practical, local agency cash is consolidated into one bank account and invested on a pooled concept basis. Interest earnings are allocated monthly according to month-end cash and investment balances for each fund.
3. Competitive Bids - Purchases and sales of securities are made on the basis of competitive offers and bids.
4. Cash Forecast - The cash flow for the City is analyzed with the receipt of revenues and maturity of investments scheduled so that adequate cash will be available to meet disbursement requirements.
5. Investment Limitations - Security purchases and holdings are maintained within statutory limits imposed by the California Government Code.
6. Liquidity - The marketability of a security is considered at the time of purchase, as the security may have to be sold at a later date to meet unanticipated cash demands.
7. Diversification - The portfolio should consist of various types of securities, issuers, and maturities.

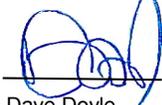
#### STRATEGY

1. Economic Forecasts - Economic Forecasts are obtained periodically from economists and financial experts through bankers and brokers to assist the Director of Finance/City Treasurer or his/her designee with the formulation of an investment strategy for the local agency.
2. Implementing Investment Strategy - Investment transactions are executed to conform to anticipated interest rate trends and the current investment strategy plan.



# City of Aliso Viejo

## ADMINISTRATIVE POLICY

SUBJECT	APPROVED BY:	PROCEDURE NO.	EFF. DATE	PAGE
<b>INVESTMENT GUIDELINES, STRATEGY AND INTERNAL CONTROL</b>	 Dave Doyle CITY MANAGER	<b>11</b>	<b>7/1/2015 Rev 7/1/2017</b>	<b>2 of 4</b>

3. Rapport - A close working relationship is maintained with public works, city staff, and large vendors of the city. The objective is to pinpoint when large disbursements will clear the City's bank account. It is essential for good cash control that such large expenditures be anticipated, estimated as to dollar amount, and communicated to the Director of Finance/City Treasurer or his/her designee for liquidity planning purposes.
4. Preserve Portfolio Value - Field standards are developed in order to maintain earnings near the market and to preserve the value of the portfolio.

### INTERNAL CONTROL

#### I. OBJECTIVES OF INTERNAL CONTROL

1. To effectively and efficiently conduct business, including adherence to financial and management policies.
2. Safeguarding its assets and prevention or detection of errors and fraud.
3. Timely preparation of accurate and reliable financial information.
4. Compliance with applicable laws and regulations.

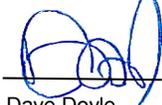
#### II. COMPONENTS OF INTERNAL CONTROL

1. Control Environment - The control environment is the set of standards, processes, and structures that provides the basis for carrying out internal control across the organization. Management establishes the tone at the top regarding the importance of internal control, including expected standards of conduct, organizational structure, and assignment of authority and responsibility.
2. Risk Assessment - Risk assessment involves a dynamic process for identifying and analyzing risks in achieving the entity's objectives. Risk assessment requires management to consider the impact of possible changes in the internal and external environment that may render established internal controls ineffective.
3. Control Activities - Control activities are the actions established through policies and procedures to ensure that management's directives to mitigate risks are achieved. Segregation of duties is typically built into the development of control activities and may include authorizations, verifications, reconciliations, and reviews.
4. Communication - Communication occurs both internally and externally and provides the organization with the information needed to carry out day-to-day activities.
5. Audits – Audits are the process through which activities can be monitored and evaluated for any internal control deficiencies and communicated to management for taking corrective action.



# City of Aliso Viejo

## ADMINISTRATIVE POLICY

SUBJECT	APPROVED BY:	PROCEDURE NO.	EFF. DATE	PAGE
<b>INVESTMENT GUIDELINES, STRATEGY AND INTERNAL CONTROL</b>	 Dave Doyle CITY MANAGER	<b>11</b>	<b>7/1/2015 Rev 7/1/2017</b>	<b>3 of 4</b>

### III. ELEMENTS OF INTERNAL CONTROL

1. Organization - Responsibility for the performance of duties should be assigned and lines of authority and reporting clearly identified and delineated.
2. Segregation of functions - Segregation of functions reduces the risk for an individual to be able to perpetrate and conceal errors or commit fraud in the normal course of duty. If two parts of a transaction are handled by different individuals, collusion is necessary to conceal errors or commit fraud. Functions that should be considered when evaluating segregation of duties are authorization, execution, recording, custody of assets, and reconciliation.
3. Authorization - All transactions should be approved by an authorized individual. The responsibilities and limits of authorization should be clearly delineated. The individual or group authorizing a specific transaction or granting general authority for transactions should be in a position commensurate with the nature and significance of the transactions.
4. Controls over an accounting system - Controls over an accounting system include the procedures, both manual and computerized, carried out independently to ascertain that transactions are complete, valid, authorized, and properly recorded.

### IV. LIMITATIONS OF INTERNAL CONTROL

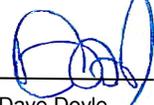
Internal control, no matter how well-designed, implemented, and conducted, can only provide reasonable assurance to management of the achievement of an entity's objectives. Inherent limitations of internal control may include:

1. Recurring, rather than unusual, types of transactions.
2. Human error due to misunderstanding, carelessness, fatigue, or distraction.
3. Potential for collusion that circumvents controls defined by the segregation of functions.
4. Possibility of a management override of the system, despite an otherwise effective system of internal control.



# City of Aliso Viejo

## ADMINISTRATIVE POLICY

<b>SUBJECT</b> <b>INVESTMENT GUIDELINES, STRATEGY AND INTERNAL CONTROL</b>	<b>APPROVED BY:</b>  Dave Doyle CITY MANAGER	<b>PROCEDURE NO.</b> <p style="text-align: center;"><b>11</b></p>	<b>EFF. DATE</b> <p style="text-align: center;"><b>7/1/2015</b>  <b>Rev</b>  <b>7/1/2017</b></p>	<b>PAGE</b> <p style="text-align: center;"><b>4 of 4</b></p>
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### SEGREGATION OF RESPONSIBILITIES FOR TREASURY FUNCTIONS

<u>Function</u>	<u>Responsibility</u>
1. Formal investment policy should be * Prepared by * Approved by	Director of Finance/City Treasurer City Council
2. Develop Investment Strategy	Director of Finance/City Treasurer or Registered Investment Advisor
3. Receive quotes and recommend investments for purchase	Director of Finance/City Treasurer, Financial Services Manager
4. Approve investment transactions	Director of Finance/City Treasurer, City Manager
5. Execute investment transactions	Director of Finance/City Treasurer
6. Approve investment transactions for compliance with Investment policy and/or State law	Financial Services Manager
7. Record investment transactions in the City's financials	Financial Services Manager/Financial Analyst
8. Verify investment i.e., match broker confirmation to City records	Director of Finance/City Treasurer Financial Services Manager
9. Confirm LAIF and Bank Wires	Director of Finance/City Treasurer Financial Services Manager/Financial Analyst
10. Safeguard assets and records: * Reconciliation of City's records to bank statements and safekeeping of records  * Annual review of (a) financial institution's financial condition, and (b) safety, liquidity, and potential yields of investment instruments	Financial Services Manager/Financial Analyst  Director of Finance/City Treasurer, City Manager
11. Annual review of investment portfolio	External Independent Auditors

The segregation of responsibilities as outlined herein is intended to enhance the City's internal controls over treasury functions. It should be noted that from time to time, due to the limited size of the Financial Services staff, segregation of responsibilities may be amended in order to fulfill the business needs of the organization.

**CITY OF ALISO VIEJO  
STATEMENT OF INVESTMENT POLICY  
FOR FISCAL YEAR 2024-232**

**AS ADOPTED SEPTEMBER 17,  
20212022**



**CITY COUNCIL**

- ~~MAYOR TIFFANY ACKLEY~~ **Mayor Ross Chun**
- ~~MAYOR PRO TEM ROSS CHUN~~ **Mayor Pro Tem**
- Richard Hurt**
- ~~COUNCILMEMBER DAVE HARRINGTON~~ **Council Member**
- Tiffany Ackley**

~~COUNCILMEMBER RICHARD~~  
~~HURT~~Council Member Dave  
Harrington

~~COUNCILMEMBER MIKE~~  
~~MUNZING~~Council Member Mike  
Munzing

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## APPENDIX A: Glossary of Terms

## APPENDIX B: Qualified Broker/Dealers

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## Statement of Investment Policy

This Statement of Investment Policy (“Policy”), as set forth by the City of Aliso Viejo (“City”), provides the guidelines for prudent investment of the City’s idle or reserve cash and outlines the policies essential to ensuring the safety and financial strength of the City’s investment portfolio.

This Policy is based on the principles of prudent money management and conforms to all applicable Federal and State Laws governing the investment of public funds. In instances in which the Policy is more restrictive than Federal or State Law, the Policy will supersede.

## Objectives

It is the policy of the City to invest public funds in a manner which will provide for the preservation of capital while meeting the daily cash flow requirements of the City and attaining a market average rate of return within an acceptable and defined level of risk.

The Policy has three primary objectives, in order of priority:

1. **Preservation of Capital (Safety)** – the protection of principal is the foremost consideration when undertaking investment decisions that affect public funds. The objective is to mitigate credit risk and interest rate risk.

### Credit Risk

Credit Risk is the risk of loss of principal due to the failure of the security issuer. Credit Risk can be mitigated by:

- Limiting investments to the safest types of securities.
- Pre-qualifying accountants, auditors, financial institutions, broker/dealers, financial advisors, and other outside consultants with which the City does business.
- Diversifying the investment portfolio so that potential losses are minimized.

### Interest Rate Risk

Interest rate risk is the risk that the market value of securities will fall due to a rise in general market interest rates. It is the policy of the City to hold individual securities to maturity in an effort to meet liquidity demands. Interest rate risk can be mitigated by:

- Holding individual securities to maturity - Structuring the investment portfolio so that securities mature to meet cash flow requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
- Employing a laddering strategy whereby staggering maturities of individual securities so that bonds come due in increments, assuring an overall liquidity pattern.
- Limiting maturities of individual securities and the average maturity of the overall portfolio.

2. **Liquidity** – the investment portfolio shall remain sufficiently liquid to meet all daily cash flow and operating requirements that may be reasonably expected or anticipated.
3. **Return or Yield** – attain a rate of return consistent with the primary objectives of safety and liquidity, throughout budgetary and economic cycles.

## Scope of Funds

The investment policy applies to all financial assets and investment activities of the City, except for proceeds of debt issuance. Debt proceeds shall be invested in accordance with the “Permitted Investments” provisions for each specific bond indenture.

The Policy applies to the following funds and is accounted for in the City’s annual audited financial statements.

- A. General Fund
- B. Special Revenue Funds
- C. Debt Service Funds
- D. Capital Improvement Funds
- E. Enterprise Funds
- F. Internal Service Funds
- G. Agency Funds

## Prudent Investor Standard

The standard to be used by investment officials shall be that of a “prudent person” and shall be applied in the context of managing all aspects of the City’s investment portfolio

### **The Prudent Investor Standard:**

Governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of sections 16429.1 and 53600 through 53684 of the California Government Code and considering individual investments as a part of an overall strategy, a trustee is authorized to acquire investments as authorized by law.

## Investment Philosophy

It is the investment philosophy of the City to make investment decisions based on an overall passive management style that embodies a prudent investor standard and such that investments are purchased [to generally match expected future cash outflows and](#) with the intent to hold until maturity.

Accordingly, the City’s conservative philosophy prohibits active trading and speculation; i.e., the purchase of securities with the intent to profit from favorable market changes in market prices or market conditions. Leveraging or borrowing money for the purpose of investing is specifically prohibited. However, the City may elect to sell a security prior to its maturity and

record a capital gain or loss in order to improve the quality, liquidity, or yield of the portfolio in response to market conditions or City needs.

## Delegation of Authority

The City's Resolution No. 2003-018 appoints the Director of Financial Services to also serve as City Treasurer. The Treasurer, or his or her designee, has the authority to manage the City's investment portfolio in accordance with California Government Code Sections 53600 and 53630 *et seq.* and all related State and Federal laws.

The Treasurer will provide prior written notification to the City Manager and City Council regarding the designation of responsibilities.

The Treasurer shall establish written procedures for the operation and management of the City's investment portfolio consistent with this investment policy. The procedures should include reference to safekeeping, repurchase agreements, wire transfer agreements, banking service contracts, collateral or depository agreements, competitive bid process, and due diligence. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction, except as provided under the terms of this policy and the investment procedures established by the Treasurer and approved by the City Manager.

[The City may also engage Securities and Exchange Commission registered external investment advisor to manage the City's investment program.](#)

## Public Trust

All participants in the investment process shall act as custodians of public funds. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of public trust. In a diversified portfolio, it must be recognized that occasional measured losses are inevitable and must be considered in the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

## Ethics and Conflicts of Interest

Elected officials and employees of the City involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial decisions under the Political Reform Act and Government Code Section 1090 *et seq.* Elected officials and employees shall disclose to the City Manager any material interests in financial institutions that conduct business with the City, and they shall further disclose any personal investment position or financial asset that could be related to the performance of the City's investment program. Elected officials and employees shall subordinate their personal investment transactions to those of the City particularly with regard to the time of purchases and sales.

Any firm proposing to provide any type of investment service to the City shall acknowledge their familiarity with the provisions of the Political Reform Act, Government Code Section 81000 *et seq.* and CA Code of Regulations 18110 *et seq.* and the provisions limiting contractual conflicts of interest under Government Code Section 1090 *et seq.* Any firm proposing to provide any type of investment service to the City shall also acknowledge their familiarity with and agree to abide by any Federal or State law, regulation, rule, or policy pertaining to or limiting campaign contributions by such firms, their employees, spouses, or agents.

All persons, firms, broker/dealers, financial institutions, and advisors providing investment services or bond issue assistance shall disclose to the City Manager and the Treasurer all fee sharing, fee-splitting, and commission arrangements with other entities or persons prior to the City agreeing to buy an investment or issue bonds.

## Internal Investment Controls

The Treasurer will implement and maintain a system of internal investment controls and segregate responsibilities of investment functions in order to prevent fraud, theft, loss of principal, loss of control over funds, inaccurate reporting, and negligence.

The Treasurer will assign designee(s) to assist in carrying out these functions and will establish an Oversight Reviewer function that may be carried out by a designated member of staff, independent individuals, or independent expert contractor to perform specified tasks.

In addition to the specified requirements placed on investment types, quality, maturity, and diversification, further controls will include:

- **Safekeeping of Securities**

To protect against losses caused by the collapse of individual securities dealers, all securities owned by the City are required to be held by a third-party safekeeping institution. Third-party safekeeping institutions may not act as custodians for any securities which that institution has issued or sold to the City.

Collateral must be held at safekeeping, as defined in the Safekeeping and Custody section of the Policy.

Payment procedures for all securities transactions will be Delivery v. Payment (DVP)

- **Competitive Bidding of Investments**

The City's investment procedures require that approved broker/dealers compete for investment purchases and sales in order for the City to obtain the highest yield available in the market and to ensure that investment transactions are free from favoritism.

Qualified Bids will be required for purchase of all investment transactions. The Treasurer shall select the best bid and is required to keep a record of each investment transaction. The Treasurer will rotate the purchase of investments among the pool of qualified broker/dealers.

[If the City utilizes an external investment advisor, the advisor shall send its approved list of broker/dealers to the City annually and follow its policies and procedures for competitive bidding.](#)

- **Annual Management Review and Audit**

An annual audit of the City's Investment Policy, practices, procedures, and portfolio status will be conducted by an independent auditor of all items including, but not limited to, items specified in the Audit Checklist provided in the City's Procedure Manual. The auditor will provide the City with written observations and recommendations regarding the adequacy of investment controls.

- **Segregated Investment Execution, Recordkeeping and Reporting**

An independent member of City staff will record the Treasurer's investment records or confirmations to the City's general ledger. In addition, independent staff will

perform the monthly reconciliation of bank, broker/dealer, and safekeeping confirmations.

- **Secondary Approval Required**

The City Manager will review and approve the establishment of investment accounts, broker/dealer, and financial institution relationships and any agreements or contracts related to investments or investment related activity.

- **Wire Transfer Controls**

All City wire transfers will be executed in accordance with a written agreement specifying control procedures required for wire transfers of funds, including the establishment of repetitive wires to pay for securities transactions with approved securities dealers as well as any other routine money transfers. All other non-repetitive wires require City Manager approval prior to release.

## Investment Policy Adoption

The City Council's primary responsibilities over the investment function includes establishing investment policies, annually reviewing such policies, appointing a City Treasurer, reviewing ~~quarterly-monthly~~ investment reports issued by the Treasurer, authorizing bond documents and financing transactions, and adopting recommended changes to the City's Investment Policy as ~~deemed~~ necessary.

The City's investment policy shall be adopted by resolution of the City Council. The policy shall be reviewed annually by the City Council and any modifications made thereto must be approved the City Council.

## Indemnification of Investment Officials

Any investment officer exercising his/her authority with due diligence, prudence, and care and in accordance with the Investment Policy and all written procedures shall be relieved of personal responsibility and liability for an individual security's losses or losses incurred by the portfolio. However, any investment officer also bears the responsibility of reporting deviations from expectations in a timely manner to City Council and appropriate action is taken to control adverse developments and mitigate loss of principal.

## Investment Portfolio Compliance

Should the portfolio, for any reason, fall out of compliance with this Investment Policy, immediate liquidation of securities in order to bring the portfolio back into compliance will not be required. However, the Treasurer must take action to bring the portfolio into compliance within 12 months from the date the portfolio was determined to be in non-compliance with the provisions of this Investment Policy. Additionally, adequate disclosure of all instances of noncompliance, and the efforts undertaken to bring the portfolio into compliance, must be made on the monthly Treasurer's Report.

## Reporting

The Treasurer shall submit a “Monthly Treasurer’s Report” to the City Manager and City Council within ~~30~~45 days following the last day of the month to be agendaized for official action at a regular Council meeting thereafter. These reports shall disclose information relevant to the risk characteristics of the City’s investment portfolio and shall include the following information:

### Monthly Treasurer’s Report

- A. Cash receipts, disbursements, and balances in total.
- B. A summary of the investment portfolio.
- C. An asset list showing the issuer, type of investment, par value, maturity date, and interest rate.
- D. Average rate of return on the City’s investment portfolio.
- E. Maturity aging grouped by type of investment.
- F. Diversification of the investment portfolio.
- G. A listing of individual investment transactions during the month, as required by Government Code section 53607.
- H. A statement of ability to meet upcoming operating expenses and spending requirements for the next six months.
- I. A statement of compliance with the Investment Policy, including a schedule of any transactions or holdings which do not comply with this policy or with the California Government Code, including a justification for their presence in the portfolio, and a timetable for resolution.

### Annual Report

The annual report will be prepared by the City Treasurer and submitted to the City Manager each fiscal year to ensure consistency. The annual report will include an overall analysis of the portfolio and shall suggest policies and improvements to enhance the City’s investment program. These enhancements will be annually considered by City Council and the authority to amend the Policy rests with City Council.

## Authorized and Suitable Investments

Investment of City funds is governed by the California Government Code Sections 53600, 53601, 53601.5, 53601.6, 53635, and 53635.5 *et seq.* Within the context of the limitations, the following investments are authorized, as further limited herein:

Matrix of Suitable Investment Options and Restrictions				
Investment Type:	Maximum Maturity:	Maximum percentage of Portfolio:	Maximum Par Value per Issuer:	Credit Quality and Requirements:
U.S. Treasury Bills, Notes and Bonds	5 Years	100 percent	N/A	Explicit Full Faith and Credit Guarantee of United States Government
Federal Agency Obligations	5 Years	60 percent	35% per agency	Implied Guarantee of the United States Government
Bankers' Acceptances (BA's)	180 Days	20 percent	5% per issuer	Domestic banks only - deemed eligible for purchase by the Federal Reserve Bank
Certificates of Deposit or Time Deposits* (CD's)	5 Years	30 percent	5% per issuer	Senior debt only from top 15 percent of peer group rated banks, savings & loans and credit unions. Defined by Section 5102 of the Financial Code.
Negotiable Certificates of Deposit	5 Years	30 percent	\$250,000	Brokered CD's insured by FDIC for a maximum of \$250,000 per issuer.
Local Agency Investment Fund (LAIF)	N/A	100 percent	\$75,000,000 (per entity)	Treasurer will review investment policies and practices to determine if consistent with the Policy
Commercial Paper	270 Days	20 percent	5% of portfolio	Highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO)
Money Market Mutual Funds	N/A	10 percent	10% per fund (SEC Registered) (\$1.00 NAV)	Highest rating from NRSRO. Must also comply with Govt. Code 53601(l) and 53601.6 (b) and the weighted average to maturity is less than 180 days.
Repurchase Agreements*	92 Days	20 percent	20%	Signed security loan agreement on file. Underlying securities maintained at 102% of original value. Reverse repurchase agreements are specifically not authorized under the Policy.
<a href="#">Supranational Securities</a>	<a href="#">5 Years</a>	<a href="#">20 percent</a>	<a href="#">10 % per issuer</a>	<a href="#">United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance</a>

				<a href="#">Corporation, or Inter-American Development Bank; rated AA or better by two NRSROs.</a>
Medium Term Corporate Notes	5 Years	30 percent	5% of portfolio	Rated “A-” or better by a nationally recognized rating service. Code 53601 (k).

\* Denotes a collateral requirement either initially, or at a pre-determined threshold. Please refer to Collateral section of the Policy for specific requirements.

## Ratings and Rating Agencies

When possible, two ratings should be obtained to determine if an investment meets the Policy’s quality standard. Currently under this Policy, only Standard and Poor’s (S&P) and Moody’s Investor Service (Moody’s) are recognized investment ratings providers, and the City has established the following minimum standards to be applied at time of purchase and for reporting purposes:

Investment Type:	Standard & Poor’s	Moody’s
Banker’s Acceptances	<b>A1</b>	<b>P1</b>
Commercial Paper	<b>A1</b>	<b>P1</b>
Certificates of Deposit	<b>AA-</b>	<b>Aa3</b>
Money Market Mutual Funds	<b>AAA</b>	<b>Aaa</b>
Medium Term Corporate Notes	<b>A-</b>	<b>A3</b>
<a href="#">Supranational Securities</a>	<a href="#">AA</a>	<a href="#">Aa2</a>
Repurchase Agreement – Provider	<b>AA</b>	<b>Aa</b>

## Prohibited Investments

State and Federal laws notwithstanding, any investment not specifically described herein including, but not limited to, reverse repurchase agreements, derivatives, options, futures, zero coupon bonds, inverse floaters, range notes, first mortgages or trust deeds, collateralized mortgage obligations (CMO’s), limited partnerships, real estate investments trusts (REIT’s), open-end mutual funds, closed-end mutual funds, mutual funds with a weighted average maturity greater than 180 days, unregulated and/or uninsured investment pools, common stock, preferred stock, commodities, precious metals, securities with high price volatility, limited marketability (less than three active bidders), securities that may default on interest payments, and any other speculative investment deemed inappropriate under the Prudent Investor standard are strictly prohibited. In addition, any investment transaction that might impair public confidence in the Aliso Viejo City government is to be avoided.

## Collateralization

Collateral for Certificates of Deposit (CD) and Negotiated Certificates of Deposit (NCD) must comply with Government Code, Chapter 4, Bank Deposit Law Section 16500 *et seq.* and the Savings and Loan and Credit Union Deposit Law Government Code Section 16600 *et seq.* In addition, if the CD is not FDIC insured or goes over the FDIC \$250,000 limit, collateral is required equal to 100 percent of principal.

Collateral for Repurchase Agreements shall be 102 percent of market value of principal and accrued interest. Collateral can be either US Treasury securities or Federal Agency securities. This will provide an addition level of security due to inevitable changes in market conditions.

Collateral will always be held by an independent third party with whom the City has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the City and retained. The right of collateral substitution is granted within the parameters and constraints of this Policy.

## Investment Pools

Government sponsored investment pools (Pools) are permitted under California Government Code Section 53601 *et seq.* and are an excellent short-term investment option for cash management facilities. These pools can provide safety, liquidity, and yield in a single diversified investment. However, thoughtful investigation and due diligence are required both initially at time of purchase and on an ongoing basis with analysis to determine that the investment pool is being managed in a manner consistent with the objectives of the Policy. The following guidelines include, but are not limited to:

- The Pool shall have attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations, or shall be insured by a municipal insurance corporation.
- The Pool marks to market weekly at a minimum.
- The Pool provides comprehensive, timely monthly reports which include detailed transaction listings, report realized and unrealized gains and losses, provide accurate market values for each security, provide quality rating for individual securities, take delivery DVP, provide third party safekeeping of all investments, and for whom an audit is conducted annually by an independent auditor with no relationship to the Pool.

## Money Market Mutual Funds

Money market mutual funds provide another safe, liquid, and diversified investment option for the City's surplus capital. However, certain conditions need to be met both initially and on an ongoing basis. The money market may only invest in US Government securities permitted under this policy and under California Government Code Section 53601 *et seq.* with final stated maturities of one year or less "Government Money Market Funds."

In order to be an eligible money market investment under this section, the primary objective of the money market, as stated in the funds' prospectus, is to maintain a constant \$1.00 Net Asset Value (NAV). The following additional guidelines include, but are not limited to:

- The money market only invests in US Government securities, and the weighted average maturity of the portfolio is less than 180 days.

- The fund shall be registered with the SEC.
- The money market shall have attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations and shall maintain these ratings for the duration of the investment.

## Maturity Limits

The longer the maturity of securities, the greater the market volatility. Therefore, the maximum maturity limit for any given security in the investment portfolio shall not exceed five (5) years.

It is also important to note that specific investments, detailed under the “Authorized and Suitable Investments” section, may be restricted to a shorter maturity.

The weighted average life of the portfolio may not exceed three (3) years in duration.

At a minimum, 150 percent of the portfolio shall remain liquid, accessible on demand by the City without restriction or penalty.

The investment portfolio shall be structured for liquidity purposes; therefore, 25-40 percent of the portfolio shall ~~mature within not exceed a 36590-days weighted average maturity.~~

Maturities will be selected based on a sufficiently detailed cash flow projection that facilitates selecting investment maturity dates to approximately match the projected dates of budgeted expenditures. Once cash flow needs are matched, maturities are selected based on a “laddering strategy” and the shape of the yield curve.

Extensions in the maximum maturity and average weighted life of the portfolio must be supported by detailed cash flow forecasts demonstrating the adequacy of cash from maturing assets to meet one hundred twenty-five percent (125%) of monthly expenditures for each prospective quarter, ending with the current maximum including capital expenditures funded on a pay-as-you-go basis. Recommendations to extend maturities must be reviewed and approved by the City Manager and City Council.

## Qualifications for Financial Institutions and Broker/Dealer’s

The Treasurer will maintain a list of qualified financial institutions and broker/dealers authorized to transact business with the City, as stated in Appendix “B”.

If the City utilizes a SEC registered external investment advisor, the advisor shall maintain a list of authorized broker-dealers and complete the appropriate due diligence required by the SEC. The external investment advisor may use its own list of approved broker/dealers and financial institutions for investment purposes on behalf of the City. The investment advisor shall submit the list of approved broker/dealers to the Finance Director/City Treasurer on an annual basis. The Finance Director/City Treasurer may restrict the use of a broker/dealer which may be deemed unsuitable.

The financial entities eligible to transact investment business with the City are:

I. Federal Reserve Bank:

Direct purchase of U.S. Treasury Bills, Notes, and Bonds using primary government dealers as designated by the Federal Reserve are exempt from quality requirements and are encouraged due to commission or mark-up discounts.

II. Nationally or State Chartered Banks, Savings and Loans, and Credit Unions:

The City may purchase investments offered from Banks, Savings and Loans, and Credit

Unions provided the institutions are:

- Nationally or State Chartered Institutions.
- Registered as investment securities dealers.
- Ranked in the top 15 percent of institutions within their respective peer group.
- The signatures of two individuals shall be required for the opening and closing of any bank account (the Treasurer, City Manager, Mayor, or Mayor Pro Tem). The Accounting Officer, who is independent of the investment function, shall keep a record of all opened and closed accounts. On an annual basis, the Accounting Officer shall provide a list of accounts to the independent auditor.

### III. Broker/Dealers:

The City will purchase investments from primary dealers whenever possible. However, if an investment deemed appropriate for the portfolio is not available through the primary market, then the Treasurer may use an authorized broker/dealer from the pre-approved list of broker/dealers on record.

For a broker/dealer to be considered for placement on the pre-approved list, they must comply with the following:

- Primary or Regional dealers that qualify for SEC Rule 15c3-1
- Provide audited financial statements from the two most frequent years
- A statement certifying that the institution has reviewed the City's Investment Policy and California Government Code Section 53600 *et seq.* and that all securities offered to the City shall comply fully with all provisions of the Policy and the California Government Code.
- The signatures of two individuals shall be required for the opening and closing of any broker/dealer account (the Treasurer, City Manager, Mayor or Mayor Pro Tem). The Accounting Officer, who is independent of the investment function, shall keep a record of all opened and closed accounts. On an annual basis, the Accounting Officer shall provide a list of accounts to the independent auditor.
- Settlement of securities traded through qualified broker/dealers shall occur trade date plus three-one or two days (T3) (depending upon security type), the current industry standard. New issue securities may have longer settlements, but none shall be greater than three weeks.

The Treasurer is responsible for ensuring that settlement occurs in a timely matter and that execution confirmations reflect accurate trade data. In addition, investment transactions are required to be Delivery v. Payment (DVP).

## Diversification Guidelines and Risks

The City recognizes diversification is an investment strategy that will mitigate risk in the investment portfolio. The City's investment portfolio shall be diversified to avoid incurring unreasonable and avoidable risks with regard to specific investment types. Within investment types, the City shall also maintain a mix of securities to avoid concentrations within individual financial institutions, geographic areas, industry types, and maturities.

The City will only invest in fixed rate, fixed maturity securities and, with the exception of U.S. Treasury securities or the Local Agency Investment Fund (LAIF), no more than 60 percent of the investment portfolio shall be invested in any single investment type or financial institution.

## Safekeeping and Custody

All security transactions, including collateral for repurchase agreements and certificates of deposit, shall be transacted on a Delivery vs. Payment (DVP) basis. This means that the securities shall be delivered to the City or the City's designated custodian upon receipt of payment by the City.

All securities that may be purchased, including collateral, shall be held by a third-party custodian designated by the Treasurer whenever possible. These securities shall be held in the City's name and control, and the third-party custodian shall be evidenced by safekeeping receipts. The third-party custodian shall send the City, on a monthly basis, a summary of safekeeping assets, and this statement shall be reconciled to the City's records on a monthly basis. Securities held in custody for the City shall be independently audited on an annual basis to verify investment holdings.

## Performance Standards and Evaluation

Investment performance is continually monitored and evaluated by the City Treasurer. Investment activity reports are generated on a monthly basis for presentation to the City Manager and City Council.

The weighted average maturity of the pooled portfolio shall not exceed three years and shall be designated to attain a market average rate of return. The market average rate of return will be determined by a custom benchmark that represents the prominent and persistent characteristics of the portfolio.

~~In addition to the three-year maturity average, the portfolio shall be structured for liquidity purposes, and 25 percent of the investment portfolio shall not exceed 90 days weighted average maturity. The independent auditor will annually verify that the portfolio conforms to the maturity requirements described above.~~

An annual audit of the City's Investment Policy, practices, procedures, and portfolio status will be conducted by an independent auditor of all items including, but not limited to, items specified in the Audit Checklist provided in the City's Procedure Manual. The auditor will provide the City Manager and City Council with written observations and recommendations regarding the adequacy of investment controls.

## Qualifications and Continuing Education

The City Treasurer shall be a City employee or contract employee. The Treasurer shall be selected on the basis of educational background and experience relevant to the Treasury function.

The City recognizes the need for and is committed to providing ongoing education specific to the investment function for the Treasurer and other City staff and officials involved in the investment process.

## GLOSSARY OF TERMS

**Accrued Interest** - Interest earned but not yet received.

**Active Deposits** - Funds which are immediately required for disbursement.

**Agencies** - Federal agency securities and/or Government-sponsored enterprises.

**Amortization** - An accounting practice of gradually decreasing (increasing) an asset's book value by spreading its depreciation (accretion) over a period of time.

**Asking Price** - The price a broker/dealer offers to sell securities. See Offer

**Bankers' Acceptance (BA)** - A “draft” or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**Basis Point** - One basis point is one hundredth of one percent (.01).

**Bear Market** - A period of generally pessimistic attitudes and declining market prices.

**Bid** - The price offered by a buyer of securities. (When you are selling securities, you ask for a bid.) See Offer.

**Bond** - A financial obligation for which the issuer promises to pay the bondholder a specified stream of future cash flows, including periodic interest payments and a principal repayment.

**Book Value** - The value at which a debt security is shown on the holder's balance sheet. Book value is acquisition cost less amortization of premium or plus accretion of discount.

**Broker** - A broker brings buyers and sellers together for a commission.

**Bull Market** - A period of generally optimistic attitudes and increasing market prices.

**Callables** - Securities that the issuer has the right to redeem prior to maturity.

**Certificate of Deposit** - A time deposit with a specific maturity, evidenced by a certificate. Large-denomination CD's are typically negotiable. CD's may be eligible for FDIC insurance.

**Collateral** - Securities, evidence of deposit, or pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposit of public moneys.

**Commercial Paper** - Short-term, unsecured promissory notes issued by a corporation to raise working capital. These negotiable instruments are purchased at a discount to par value or at par value with interest bearing.

**Comprehensive Annual Financial Report (CAFR)** - The official annual financial report for the City. It includes government-wide and fund financial statements prepared in conformity with Generally Accepted Accounting Principals (GAAP).

**Constant Maturity Treasury (CMT)** - An average yield of a specific Treasury maturity sector for a specific time frame, or an index of the average yield on United States Treasury securities adjusted to a constant maturity. This is a market index for reference of past direction of interest rates for the given Treasury maturity range.

**Coupon** - The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value.

**Credit Analysis** - A critical review and appraisal of the economic and financial conditions or of the ability to meet debt obligations.

## GLOSSARY OF TERMS (continued)

**Current Yield** - The interest paid on an investment expressed as a percentage of the current price of the security.

**Custody** - A banking service that provides safekeeping for the individual securities in a customer's investment portfolio under a written agreement which also calls for the bank to collect and pay out income, to buy, sell, receive, and deliver securities when ordered to do so by the principal.

**Debenture** - A bond secured only by the general credit of the issuer.

**Delivery v. Payment (DVP)** - Delivery of securities with a simultaneous exchange of payment for the securities.

**Demand Deposit Account** - Accounts whose balance is available to meet immediate cash needs (maturities up to 7 days).

**Derivatives** - (1) Financial instruments whose return profile is linked to, or derived from, the security and may include a leveraging factor, or (2) financial contracts based upon notional amount whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities, or commodities).

**Discount** - The difference between the cost of a security and its value at maturity when quoted at lower than face value.

**Discount Securities** - Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U. S. Treasury Bills.

**Diversification** - Dividing investment funds among a variety of securities offering independent return and risk profiles.

**Duration** - The weighted average maturity of a bond's cash flow stream, where the present value of the cash flows serves as the weights; the future point in time at which, on average, an investor has received exactly half of the original investment in present value terms; a bond's zero-coupon equivalent; the fulcrum of a bond's present value cash flow time line.

**Fannie Mae** - Trade name for the Federal National Mortgage Association (FNMA).

**Federal Credit Agencies** - Agencies of the Federal Government set up to supply credit to various classes of institutions and individuals, e.g., Savings and Loans, small business firms, students, farmers, farm cooperatives, and exporters.

**Federal Deposit Insurance Corporation (FDIC)** - Insurance provided to customers of a subscribing bank, which guarantees deposits to a set limit (currently \$100,000) per account.

**Federal Funds Rate** - The rate of interest at which Federal funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**Federal Home Loan Banks (FHLB)** – Government-sponsored wholesale banks which lend funds and provide correspondent banking services to member commercial banks, thrifty institutions, credit unions, and insurance companies. The mission of the FHLBs is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

## GLOSSARY OF TERMS (continued)

**Federal Home Loan Mortgage Corporation (FHLMC)** - The FHLMC was created under the Federal Home Loan Mortgage Act, Title III of the Emergency Home Finance Act of 1970 as a stockholder-owned government-sponsored enterprise. Freddie Mac, as the corporation is called, is charged with providing stability and assistance to the secondary home mortgage market by buying first mortgages and participation interests and reselling these securities in the form of guaranteed mortgage securities. Although agency obligations are not explicitly guaranteed by the federal government, the rating agencies believe that in the unlikely event of financial difficulties, the federal government will support the agency to the extent necessary to provide for full and timely payment on their securities.

**Federal National Mortgage Association (FNMA)** - FNMA, like GNMA, was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**Federal Open Market Committee (FOMC)** - Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

**Federal Reserve System** - The central bank of the U. S. which consists of a seven-member Board of Governors, 12 regional banks, and 5,700 commercial banks that are members.

**Fed Wire** - A wire transmission service established by the Federal Reserve Bank to facilitate the transfer of funds through debits and credits of funds between participants within the Fed system.

**Freddie Mac** - Trade name for the Federal Home Loan Mortgage Corporation (FHLMC).

**Ginnie Mae** - Trade name for the Government National Mortgage Association (GNMA).

**Government National Mortgage Association (GNMA)** - Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by the full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA, or FmHA mortgages. The term "pass-throughs" is often used to describe Ginnie Maes.

**Inactive Deposits** - Funds not immediately needed for disbursements.

**Interest Rate** - The annual yield earned on an investment, expressed as a percentage.

**Investment Agreements** - An agreement with a financial institution to borrow public funds subject to certain negotiated terms and conditions concerning collateral, liquidity, and interest rates.

## GLOSSARY OF TERMS (continued)

**LAIF (Local Agency Investment Fund)** - A special fund in the State Treasury which local agencies may use to deposit funds for investment. There is no minimum investment period, and the minimum transaction is \$5,000, in multiples of \$1,000 above that, with a maximum balance of \$5075,000,000 for any agency. It offers high liquidity because deposits can be converted to cash in 24 hours and no interest is lost. All interest is distributed to those agencies participating on a proportionate share basis determined by the amounts deposited and the length of time they are deposited. Interest is paid quarterly. California Government Code §16429.3 states, in part:

"money placed with the State Treasurer for deposit in the Local Agency Investment Fund by cities, counties, or special districts shall not be subject to impoundment or seizure by any state official or state agency."

**Liquidity** - Refers to the ability to rapidly convert an investment into cash with minimal risk of losing some portion of principal and/or interest.

**Local Government Investment Pool (LGIP)** - The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

**Market Value** - The price at which a security is trading and could presumably be purchased or sold.

**Master Repurchase Agreement** - A written contract covering all future transactions between the parties to repurchase and/or reverse repurchase agreements that establishes each party's rights in the transactions. A master agreement will specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

**Maturity** - The date upon which the principal or stated value of an investment becomes due and payable.

**Medium Term Corporate Notes** - Unsecured promissory notes issued by a corporation organized and operating in the United States. These are negotiable instruments and are traded in the secondary market. Medium term corporate notes can be defined as extended maturity commercial paper. Local agencies are restricted by the Government Code to investments in corporations rated in the top three note categories by Moody's Investors Service, Inc., and/or Standard and Poor's Corporation. For medium term notes, eligible purchases consist of instruments that have a rating of "A" or better by both Moody's Investors Service, Inc., and Standard and Poor's Corporation.

**Money Market** - The market in which short-term debt instruments (bills, commercial paper, banker's acceptances, etc.) are issued and traded.

**Negotiable Certificates of Deposit** - Unsecured obligations of the financial institution, or bank, bought at par value with the promise to pay face value plus accrued interest at maturity. They are high-grade negotiable instruments, paying a higher interest rate than regular certificates of deposit. The primary market issuance is in multiples of \$1,000,000; the secondary market usually trades in denominations of \$500,000, although smaller lots are occasionally available. As a matter of practice, only the ten largest U.S. banks where there is a secondary market established for continued liquidity would be considered for investment.

## GLOSSARY OF TERMS (continued)

**NRSRO** - Nationally recognized statistical-rating organization

**New Issue** - Term used when a security is originally "brought" to market.

**Offer** - The price asked by a seller of securities. (When you are buying securities, you ask for an offer.) See Asking Price and Bid.

**Open Market Operations** - Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserve into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**Paper Gain or Loss** - Term used for unrealized gain or loss on securities being held in a portfolio based on comparison of current market quotes and their original cost. This situation exists as long as the security is held while there is a difference between cost value (book value) and the market value.

**Perfected Delivery** - Refers to an investment where the actual security or collateral is held by an independent third party representing the purchasing entity.

**Portfolio** - Collection of securities held by an investor.

**Primary Dealer** - A group of government securities dealers that submit daily reports of market activity and security positions held to the Federal Reserve Bank of New York and are subject to its informal oversight.

**Prudent Person Rule** - An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state - the so-called legal list. In other states, the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**Purchase Date** - The date in which a security is purchased for settlement on that or a later date.

**Qualified Public Depositories** - A financial institution that does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less approved by the Public Deposit Protection Commission to hold public deposits.

**Rate of Return** - The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

**Repurchase Agreement (RP or REPO)** - A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, or increasing bank reserves.

## GLOSSARY OF TERMS (continued)

**Reverse Repurchase Agreement (Reverse REPO)** - A transaction where the seller (City) agrees to buy back from the buyer (bank) the securities at an agreed upon price after a stated period of time.

**Risk** - Degree of uncertainty of return on an asset.

**Safekeeping** - See Custody.

**Secondary Market** - A market made for the purchase and sale of outstanding issues following the initial distribution.

**Securities and Exchange Commission** - Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**SEC Rule 15(C)3-1** - See Uniform Net Capital Rule.

**Settlement Date** - The date on which a trade is cleared by delivery of securities against funds.

**Spread** - a) The yield or price difference between the bid and offer on an issue; b) the yield or price difference between different issues.

**Structured Notes** - Notes issued by government-sponsored enterprises (FHLB, FNMA, etc.) and corporations that have imbedded options (e.g., call features, step-up coupons, floating rate coupons, derivative-based returns) in their debt structure. Their market performance is impacted by the fluctuation of interest rates, the volatility of the imbedded options, and shifts in the shape of the yield curve.

**Supranational** - [—A supranational entity is formed by two or more central governments with the purpose of promoting economic development for the member countries. Supranational institutions finance their activities by issuing debt, such as supranational bonds. The three U.S. based supranationals are International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank.](#)

**Swap** - The sale of one issue and the simultaneous purchase of another for some perceived advantage.

**Treasury Bills** - A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

**Treasury Bonds** - Long-term coupon-bearing U. S. Treasury securities issued as direct obligations of the U. S. Government and having initial maturities of more than ten years.

**Treasury Notes** - Medium-term coupon-bearing U. S. Treasury securities issued as direct obligations of the U. S. Government and having initial maturities from two to ten years.

**Uniform Net Capital Rule** - Securities and Exchange Commission requirement that member firms, as well as nonmember broker-dealers in securities, maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

**U.S. Government Agencies** - Instruments issued by various U.S. Government Agencies, most of which are secured only by the credit worthiness of the particular agency.

**Yield** - The rate of annual income return on an investment, expressed as a percentage. It is obtained by dividing the current dollar income by the current market price of the security.

*Appendix A*

**Yield to Maturity** - The rate of income return on an investment, minus any premium or plus any discount, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond, expressed as a percentage.

## QUALIFIED BROKER/DEALERS

The City has qualified the following Broker/Dealer's:

- Cantella & Co. Inc
- Great Pacific Securities
- Higgins Capital
- Morgan Stanley
- Multi-Bank Securities, Inc
- Mutual Securities, Inc
- Raymond James & Associates, Inc.
- Time Value Investments
- UBS Financial Services, Inc
- Wedbush Securities

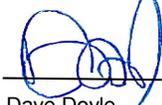
## **ADMINISTRATIVE POLICY**

### **Investment Guidelines, Strategy, and Internal Control**



# City of Aliso Viejo

## ADMINISTRATIVE POLICY

SUBJECT	APPROVED BY:	PROCEDURE NO.	EFF. DATE	PAGE
<b>INVESTMENT GUIDELINES, STRATEGY AND INTERNAL CONTROL</b>	 Dave Doyle CITY MANAGER	<b>11</b>	<b>7/1/2015 Rev 7/1/2017</b>	<b>1 of 4</b>

### PURPOSE

The purpose of this policy is to establish a framework for the investment of surplus City funds within the established internal control procedures for treasury functions.

### POLICY

#### INVESTMENT GUIDELINES AND STRATEGY

#### GUIDELINES

1. Investment Transaction - Every investment transaction must be authorized and reviewed by the Director of Finance/City Treasurer or his/her designee.
2. Pooled Cash - Whenever practical, local agency cash is consolidated into one bank account and invested on a pooled concept basis. Interest earnings are allocated monthly according to month-end cash and investment balances for each fund.
3. Competitive Bids - Purchases and sales of securities are made on the basis of competitive offers and bids.
4. Cash Forecast - The cash flow for the City is analyzed with the receipt of revenues and maturity of investments scheduled so that adequate cash will be available to meet disbursement requirements.
5. Investment Limitations - Security purchases and holdings are maintained within statutory limits imposed by the California Government Code.
6. Liquidity - The marketability of a security is considered at the time of purchase, as the security may have to be sold at a later date to meet unanticipated cash demands.
7. Diversification - The portfolio should consist of various types of securities, issuers, and maturities.

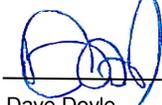
#### STRATEGY

1. Economic Forecasts - Economic Forecasts are obtained periodically from economists and financial experts through bankers and brokers to assist the Director of Finance/City Treasurer or his/her designee with the formulation of an investment strategy for the local agency.
2. Implementing Investment Strategy - Investment transactions are executed to conform to anticipated interest rate trends and the current investment strategy plan.



# City of Aliso Viejo

## ADMINISTRATIVE POLICY

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3. Rapport - A close working relationship is maintained with public works, city staff, and large vendors of the city. The objective is to pinpoint when large disbursements will clear the City's bank account. It is essential for good cash control that such large expenditures be anticipated, estimated as to dollar amount, and communicated to the Director of Finance/City Treasurer or his/her designee for liquidity planning purposes.
4. Preserve Portfolio Value - Field standards are developed in order to maintain earnings near the market and to preserve the value of the portfolio.

### INTERNAL CONTROL

#### I. OBJECTIVES OF INTERNAL CONTROL

1. To effectively and efficiently conduct business, including adherence to financial and management policies.
2. Safeguarding its assets and prevention or detection of errors and fraud.
3. Timely preparation of accurate and reliable financial information.
4. Compliance with applicable laws and regulations.

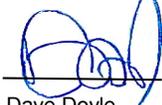
#### II. COMPONENTS OF INTERNAL CONTROL

1. Control Environment - The control environment is the set of standards, processes, and structures that provides the basis for carrying out internal control across the organization. Management establishes the tone at the top regarding the importance of internal control, including expected standards of conduct, organizational structure, and assignment of authority and responsibility.
2. Risk Assessment - Risk assessment involves a dynamic process for identifying and analyzing risks in achieving the entity's objectives. Risk assessment requires management to consider the impact of possible changes in the internal and external environment that may render established internal controls ineffective.
3. Control Activities - Control activities are the actions established through policies and procedures to ensure that management's directives to mitigate risks are achieved. Segregation of duties is typically built into the development of control activities and may include authorizations, verifications, reconciliations, and reviews.
4. Communication - Communication occurs both internally and externally and provides the organization with the information needed to carry out day-to-day activities.
5. Audits – Audits are the process through which activities can be monitored and evaluated for any internal control deficiencies and communicated to management for taking corrective action.



# City of Aliso Viejo

## ADMINISTRATIVE POLICY

SUBJECT	APPROVED BY:	PROCEDURE NO.	EFF. DATE	PAGE
<b>INVESTMENT GUIDELINES, STRATEGY AND INTERNAL CONTROL</b>	 Dave Doyle CITY MANAGER	<b>11</b>	<b>7/1/2015 Rev 7/1/2017</b>	<b>3 of 4</b>

### III. ELEMENTS OF INTERNAL CONTROL

1. Organization - Responsibility for the performance of duties should be assigned and lines of authority and reporting clearly identified and delineated.
2. Segregation of functions - Segregation of functions reduces the risk for an individual to be able to perpetrate and conceal errors or commit fraud in the normal course of duty. If two parts of a transaction are handled by different individuals, collusion is necessary to conceal errors or commit fraud. Functions that should be considered when evaluating segregation of duties are authorization, execution, recording, custody of assets, and reconciliation.
3. Authorization - All transactions should be approved by an authorized individual. The responsibilities and limits of authorization should be clearly delineated. The individual or group authorizing a specific transaction or granting general authority for transactions should be in a position commensurate with the nature and significance of the transactions.
4. Controls over an accounting system - Controls over an accounting system include the procedures, both manual and computerized, carried out independently to ascertain that transactions are complete, valid, authorized, and properly recorded.

### IV. LIMITATIONS OF INTERNAL CONTROL

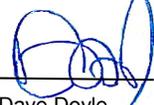
Internal control, no matter how well-designed, implemented, and conducted, can only provide reasonable assurance to management of the achievement of an entity's objectives. Inherent limitations of internal control may include:

1. Recurring, rather than unusual, types of transactions.
2. Human error due to misunderstanding, carelessness, fatigue, or distraction.
3. Potential for collusion that circumvents controls defined by the segregation of functions.
4. Possibility of a management override of the system, despite an otherwise effective system of internal control.



# City of Aliso Viejo

## ADMINISTRATIVE POLICY

<b>SUBJECT</b> <b>INVESTMENT GUIDELINES, STRATEGY AND INTERNAL CONTROL</b>	<b>APPROVED BY:</b>  Dave Doyle CITY MANAGER	<b>PROCEDURE NO.</b> <p style="text-align: center;"><b>11</b></p>	<b>EFF. DATE</b> <p style="text-align: center;"><b>7/1/2015</b>  <b>Rev</b>  <b>7/1/2017</b></p>	<b>PAGE</b> <p style="text-align: center;"><b>4 of 4</b></p>
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### SEGREGATION OF RESPONSIBILITIES FOR TREASURY FUNCTIONS

Function	Responsibility
1. Formal investment policy should be * Prepared by * Approved by	Director of Finance/City Treasurer City Council
2. Develop Investment Strategy	Director of Finance/City Treasurer or Registered Investment Advisor
3. Receive quotes and recommend investments for purchase	Director of Finance/City Treasurer, Financial Services Manager
4. Approve investment transactions	Director of Finance/City Treasurer, City Manager
5. Execute investment transactions	Director of Finance/City Treasurer
6. Approve investment transactions for compliance with Investment policy and/or State law	Financial Services Manager
7. Record investment transactions in the City's financials	Financial Services Manager/Financial Analyst
8. Verify investment i.e., match broker confirmation to City records	Director of Finance/City Treasurer Financial Services Manager
9. Confirm LAIF and Bank Wires	Director of Finance/City Treasurer Financial Services Manager/Financial Analyst
10. Safeguard assets and records: * Reconciliation of City's records to bank statements and safekeeping of records  * Annual review of (a) financial institution's financial condition, and (b) safety, liquidity, and potential yields of investment instruments	Financial Services Manager/Financial Analyst  Director of Finance/City Treasurer, City Manager
11. Annual review of investment portfolio	External Independent Auditors

The segregation of responsibilities as outlined herein is intended to enhance the City's internal controls over treasury functions. It should be noted that from time to time, due to the limited size of the Financial Services staff, segregation of responsibilities may be amended in order to fulfill the business needs of the organization.

**RESOLUTION 2021-23**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, REPEALING RESOLUTION NO. 2020-36, AND ADOPTING AN INVESTMENT POLICY FOR FISCAL YEAR 2021-22**

**WHEREAS**, Government Code Section 53600 et seq. sets forth the State of California's policy with regard to the importance of the solvency and creditworthiness of each individual local agency and the protection thereof; and

**WHEREAS**, the City of Aliso Viejo is a local agency subject to the provisions of Government Code Section 53600 et seq.; and

**WHEREAS**, Government Code Section 53646 requires local agencies, such as the City of Aliso Viejo to consider annually a statement of investment policy, after review and consideration at a public meeting; and

**WHEREAS**, at a regular public meeting of the City Council the Council considered a statement of investment policy for the City, entitled *City of Aliso Viejo Statement of Investment Policy for Fiscal Year 2021-22* attached hereto as Exhibit "A" and incorporated herein;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALISO VIEJO AS FOLLOWS:**

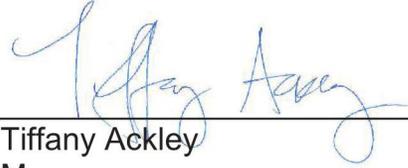
Section 1. The statement of investment attached hereto as Exhibit "A" entitled *City of Aliso Viejo Statement of Investment Policy for Fiscal Year 2021-22* is adopted as the City's Investment Policy.

Section 2. Resolution No, 2020-36 is hereby repealed

Section 3. This Resolution shall be effective July 1, 2021.

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

**PASSED, APPROVED AND ADOPTED** this 1<sup>st</sup> day of September 2021.



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Tiffany Ackley  
Mayor

APPROVED AS TO FORM:



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Scott C. Smith  
City Attorney

ATTEST:



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Mitzi Ortiz, MMC  
City Clerk

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            ) ss.  
CITY OF ALISO VIEJO            )

I, MITZI ORTIZ, City Clerk of the City of Aliso Viejo, California, DO HEREBY CERTIFY that the foregoing is the original of Resolution No. 2021-23 duly passed and adopted by the City Council of the City of Aliso Viejo at their regular meeting held on the 1st day of September 2021, by the following roll call vote, to wit:

AYES:            Mayor Ackley, Mayor Pro Tem Chun, Councilmembers Harrington, Hurt and Munzing

NOES:           None

ABSENT:        None

  
\_\_\_\_\_  
MITZI ORTIZ, MMC  
CITY CLERK

**CITY OF ALISO VIEJO**  
**STATEMENT OF INVESTMENT POLICY**  
**FOR FISCAL YEAR 2021-22**  
**AS ADOPTED SEPTEMBER 1, 2021**



**CITY COUNCIL**

**MAYOR TIFFANY ACKLEY**  
**MAYOR PRO TEM ROSS CHUN**  
**COUNCILMEMBER DAVE HARRINGTON**  
**COUNCILMEMBER RICHARD HURT**  
**COUNCILMEMBER MIKE MUNZING**

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## **APPENDIX A: Glossary of Terms**

## **APPENDIX B: Qualified Broker/Dealers**

## **APPENDIX C: Administrative Policy: Investment Guidelines, Strategy, and Internal Control**

## Statement of Investment Policy

This Statement of Investment Policy (“Policy”), as set forth by the City of Aliso Viejo (“City”), provides the guidelines for prudent investment of the City’s idle or reserve cash and outlines the policies essential to ensuring the safety and financial strength of the City’s investment portfolio.

This Policy is based on the principles of prudent money management and conforms to all applicable Federal and State Laws governing the investment of public funds. In instances in which the Policy is more restrictive than Federal or State Law, the Policy will supersede.

## Objectives

It is the policy of the City to invest public funds in a manner which will provide for the preservation of capital while meeting the daily cash flow requirements of the City and attaining a market average rate of return within an acceptable and defined level of risk.

The Policy has three primary objectives, in order of priority:

1. **Preservation of Capital (Safety)** – the protection of principal is the foremost consideration when undertaking investment decisions that affect public funds. The objective is to mitigate credit risk and interest rate risk.

### Credit Risk

Credit Risk is the risk of loss of principal due to the failure of the security issuer. Credit Risk can be mitigated by:

- Limiting investments to the safest types of securities.
- Pre-qualifying accountants, auditors, financial institutions, broker/dealers, financial advisors, and other outside consultants with which the City does business.
- Diversifying the investment portfolio so that potential losses are minimized.

### Interest Rate Risk

Interest rate risk is the risk that the market value of securities will fall due to a rise in general market interest rates. It is the policy of the City to hold individual securities to maturity in an effort to meet liquidity demands. Interest rate risk can be mitigated by:

- Holding individual securities to maturity - Structuring the investment portfolio so that securities mature to meet cash flow requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
- Employing a laddering strategy whereby staggering maturities of individual securities so that bonds come due in increments, assuring an overall liquidity pattern.
- Limiting maturities of individual securities and the average maturity of the overall portfolio.

2. **Liquidity** – the investment portfolio shall remain sufficiently liquid to meet all daily cash flow and operating requirements that may be reasonably expected or anticipated.
3. **Return or Yield** – attain a rate of return consistent with the primary objectives of safety and liquidity, throughout budgetary and economic cycles.

## Scope of Funds

The investment policy applies to all financial assets and investment activities of the City, except for proceeds of debt issuance. Debt proceeds shall be invested in accordance with the “Permitted Investments” provisions for each specific bond indenture.

The Policy applies to the following funds and is accounted for in the City’s annual audited financial statements.

- A. General Fund
- B. Special Revenue Funds
- C. Debt Service Funds
- D. Capital Improvement Funds
- E. Enterprise Funds
- F. Internal Service Funds
- G. Agency Funds

## Prudent Investor Standard

The standard to be used by investment officials shall be that of a “prudent person” and shall be applied in the context of managing all aspects of the City’s investment portfolio

### **The Prudent Investor Standard:**

Governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of sections 16429.1 and 53600 through 53684 of the California Government Code and considering individual investments as a part of an overall strategy, a trustee is authorized to acquire investments as authorized by law.

## Investment Philosophy

It is the investment philosophy of the City to make investment decisions based on an overall passive management style that embodies a prudent investor standard and such that investments are purchased with the intent to hold until maturity.

Accordingly, the City’s conservative philosophy prohibits active trading and speculation; i.e., the purchase of securities with the intent to profit from favorable market changes in market prices or market conditions. Leveraging or borrowing money for the purpose of investing is specifically prohibited. However, the City may elect to sell a security prior to its maturity and

record a capital gain or loss in order to improve the quality, liquidity, or yield of the portfolio in response to market conditions or City needs.

## **Delegation of Authority**

The City's Resolution No. 2003-018 appoints the Director of Financial Services to also serve as City Treasurer. The Treasurer, or his or her designee, has the authority to manage the City's investment portfolio in accordance with California Government Code Sections 53600 and 53630 *et seq.* and all related State and Federal laws.

The Treasurer will provide prior written notification to the City Manager and City Council regarding the designation of responsibilities.

The Treasurer shall establish written procedures for the operation and management of the City's investment portfolio consistent with this investment policy. The procedures should include reference to safekeeping, repurchase agreements, wire transfer agreements, banking service contracts, collateral or depository agreements, competitive bid process, and due diligence. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction, except as provided under the terms of this policy and the investment procedures established by the Treasurer and approved by the City Manager.

## **Public Trust**

All participants in the investment process shall act as custodians of public funds. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of public trust. In a diversified portfolio, it must be recognized that occasional measured losses are inevitable and must be considered in the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

## **Ethics and Conflicts of Interest**

Elected officials and employees of the City involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial decisions under the Political Reform Act and Government Code Section 1090 *et seq.* Elected officials and employees shall disclose to the City Manager any material interests in financial institutions that conduct business with the City, and they shall further disclose any personal investment position or financial asset that could be related to the performance of the City's investment program. Elected officials and employees shall subordinate their personal investment transactions to those of the City particularly with regard to the time of purchases and sales.

Any firm proposing to provide any type of investment service to the City shall acknowledge their familiarity with the provisions of the Political Reform Act, Government Code Section 81000 *et seq.* and CA Code of Regulations 18110 *et seq.* and the provisions limiting contractual conflicts of interest under Government Code Section 1090 *et seq.* Any firm proposing to provide any type of investment service to the City shall also acknowledge their familiarity with and agree to abide by any Federal or State law, regulation, rule, or policy pertaining to or limiting campaign contributions by such firms, their employees, spouses, or agents.

All persons, firms, broker/dealers, financial institutions, and advisors providing investment services or bond issue assistance shall disclose to the City Manager and the Treasurer all fee

sharing, fee-splitting, and commission arrangements with other entities or persons prior to the City agreeing to buy an investment or issue bonds.

## **Internal Investment Controls**

The Treasurer will implement and maintain a system of internal investment controls and segregate responsibilities of investment functions in order to prevent fraud, theft, loss of principal, loss of control over funds, inaccurate reporting, and negligence.

The Treasurer will assign designee(s) to assist in carrying out these functions and will establish an Oversight Reviewer function that may be carried out by a designated member of staff, independent individuals, or independent expert contractor to perform specified tasks.

In addition to the specified requirements placed on investment types, quality, maturity, and diversification, further controls will include:

- **Safekeeping of Securities**

To protect against losses caused by the collapse of individual securities dealers, all securities owned by the City are required to be held by a third-party safekeeping institution. Third-party safekeeping institutions may not act as custodians for any securities which that institution has issued or sold to the City.

Collateral must be held at safekeeping, as defined in the Safekeeping and Custody section of the Policy.

Payment procedures for all securities transactions will be Delivery v. Payment (DVP)

- **Competitive Bidding of Investments**

The City's investment procedures require that approved broker/dealers compete for investment purchases and sales in order for the City to obtain the highest yield available in the market and to ensure that investment transactions are free from favoritism.

Qualified Bids will be required for purchase of all investment transactions. The Treasurer shall select the best bid and is required to keep a record of each investment transaction. The Treasurer will rotate the purchase of investments among the pool of qualified broker/dealers.

- **Annual Management Review and Audit**

An annual audit of the City's Investment Policy, practices, procedures, and portfolio status will be conducted by an independent auditor of all items including, but not limited to, items specified in the Audit Checklist provided in the City's Procedure Manual. The auditor will provide the City with written observations and recommendations regarding the adequacy of investment controls.

- **Segregated Investment Execution, Recordkeeping and Reporting**

An independent member of City staff will record the Treasurer's investment records or confirmations to the City's general ledger. In addition, independent staff will perform the monthly reconciliation of bank, broker/dealer, and safekeeping confirmations.

- **Secondary Approval Required**

The City Manager will review and approve the establishment of investment accounts, broker/dealer, and financial institution relationships and any agreements or contracts related to investments or investment related activity.

- **Wire Transfer Controls**

All City wire transfers will be executed in accordance with a written agreement specifying control procedures required for wire transfers of funds, including the establishment of repetitive wires to pay for securities transactions with approved securities dealers as well as any other routine money transfers. All other non-repetitive wires require City Manager approval prior to release.

## **Investment Policy Adoption**

The City Council's primary responsibilities over the investment function includes establishing investment policies, annually reviewing such policies, appointing a City Treasurer, reviewing quarterly investment reports issued by the Treasurer, authorizing bond documents and financing transactions, and adopting recommended changes to the City's Investment Policy as deemed necessary.

The City's investment policy shall be adopted by resolution of the City Council. The policy shall be reviewed annually by the City Council and any modifications made thereto must be approved the City Council.

## **Indemnification of Investment Officials**

Any investment officer exercising his/her authority with due diligence, prudence, and care and in accordance with the Investment Policy and all written procedures shall be relieved of personal responsibility and liability for an individual security's losses or losses incurred by the portfolio. However, any investment officer also bears the responsibility of reporting deviations from expectations in a timely manner to City Council and appropriate action is taken to control adverse developments and mitigate loss of principal.

## **Investment Portfolio Compliance**

Should the portfolio, for any reason, fall out of compliance with this Investment Policy, immediate liquidation of securities in order to bring the portfolio back into compliance will not be required. However, the Treasurer must take action to bring the portfolio into compliance within 12 months from the date the portfolio was determined to be in non-compliance with the provisions of this Investment Policy. Additionally, adequate disclosure of all instances of noncompliance, and the efforts undertaken to bring the portfolio into compliance, must be made on the monthly Treasurer's Report.

## Reporting

The Treasurer shall submit a “Monthly Treasurer’s Report” to the City Manager and City Council within 30 days following the last day of the month to be agendaized for official action at a regular Council meeting thereafter. These reports shall disclose information relevant to the risk characteristics of the City’s investment portfolio and shall include the following information:

### Monthly Treasurer’s Report

- A. Cash receipts, disbursements, and balances in total.
- B. A summary of the investment portfolio.
- C. An asset list showing the issuer, type of investment, par value, maturity date, and interest rate.
- D. Average rate of return on the City’s investment portfolio.
- E. Maturity aging grouped by type of investment.
- F. Diversification of the investment portfolio.
- G. A listing of individual investment transactions during the month, as required by Government Code section 53607.
- H. A statement of ability to meet upcoming operating expenses and spending requirements for the next six months.
- I. A statement of compliance with the Investment Policy, including a schedule of any transactions or holdings which do not comply with this policy or with the California Government Code, including a justification for their presence in the portfolio, and a timetable for resolution.

### Annual Report

The annual report will be prepared by the City Treasurer and submitted to the City Manager each fiscal year to ensure consistency. The annual report will include an overall analysis of the portfolio and shall suggest policies and improvements to enhance the City’s investment program. These enhancements will be annually considered by City Council and the authority to amend the Policy rests with City Council.

## Authorized and Suitable Investments

Investment of City funds is governed by the California Government Code Sections 53600, 53601, 53601.5, 53601.6, 53635, and 53635.5 *et seq.* Within the context of the limitations, the following investments are authorized, as further limited herein:

Matrix of Suitable Investment Options and Restrictions				
Investment Type:	Maximum Maturity:	Maximum percentage of Portfolio:	Maximum Par Value per Issuer:	Credit Quality and Requirements:
U.S. Treasury Bills, Notes and Bonds	5 Years	100 percent	N/A	Explicit Full Faith and Credit Guarantee of United States Government
Federal Agency Obligations	5 Years	60 percent	35% per agency	Implied Guarantee of the United States Government
Bankers' Acceptances (BA's)	180 Days	20 percent	5% per issuer	Domestic banks only - deemed eligible for purchase by the Federal Reserve Bank
Certificates of Deposit or Time Deposits* (CD's)	5 Years	30 percent	5% per issuer	Senior debt only from top 15 percent of peer group rated banks, savings & loans and credit unions. Defined by Section 5102 of the Financial Code.
Negotiable Certificates of Deposit	5 Years	30 percent	\$250,000	Brokered CD's insured by FDIC for a maximum of \$250,000 per issuer.
Local Agency Investment Fund (LAIF)	N/A	100 percent	\$75,000,000 (per entity)	Treasurer will review investment policies and practices to determine if consistent with the Policy
Commercial Paper	270 Days	20 percent	5% of portfolio	Highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO)
Money Market Mutual Funds	N/A	10 percent	10% per fund (SEC Registered) (\$1.00 NAV)	Highest rating from NRSRO. Must also comply with Govt. Code 53601(l) and 53601.6 (b) and the weighted average to maturity is less than 180 days.
Repurchase Agreements*	92 Days	20 percent	20%	Signed security loan agreement on file. Underlying securities maintained at 102% of original value. Reverse repurchase agreements are specifically not authorized under the Policy.
Medium Term Corporate Notes	5 Years	30 percent	5% of portfolio	Rated "A-" or better by a nationally recognized rating service. Code 53601 (k).

\* Denotes a collateral requirement either initially, or at a pre-determined threshold. Please refer to Collateral section of the Policy for specific requirements.

## Ratings and Rating Agencies

When possible, two ratings should be obtained to determine if an investment meets the Policy's quality standard. Currently under this Policy, only Standard and Poor's (S&P) and Moody's Investor Service (Moody's) are recognized investment ratings providers, and the City has established the following minimum standards to be applied at time of purchase and for reporting purposes:

Investment Type:	Standard & Poor's	Moody's
Banker's Acceptances	<b>A1</b>	<b>P1</b>
Commercial Paper	<b>A1</b>	<b>P1</b>
Certificates of Deposit	<b>AA-</b>	<b>Aa3</b>
Money Market Mutual Funds	<b>AAA</b>	<b>Aaa</b>
Medium Term Corporate Notes	<b>A-</b>	<b>A3</b>
Repurchase Agreement – Provider	<b>AA</b>	<b>Aa</b>

## Prohibited Investments

State and Federal laws notwithstanding, any investment not specifically described herein including, but not limited to, reverse repurchase agreements, derivatives, options, futures, zero coupon bonds, inverse floaters, range notes, first mortgages or trust deeds, collateralized mortgage obligations (CMO's), limited partnerships, real estate investments trusts (REIT's), open-end mutual funds, closed-end mutual funds, mutual funds with a weighted average maturity greater than 180 days, unregulated and/or uninsured investment pools, common stock, preferred stock, commodities, precious metals, securities with high price volatility, limited marketability (less than three active bidders), securities that may default on interest payments, and any other speculative investment deemed inappropriate under the Prudent Investor standard are strictly prohibited. In addition, any investment transaction that might impair public confidence in the Aliso Viejo City government is to be avoided.

## Collateralization

Collateral for Certificates of Deposit (CD) and Negotiated Certificates of Deposit (NCD) must comply with Government Code, Chapter 4, Bank Deposit Law Section 16500 *et seq.* and the Savings and Loan and Credit Union Deposit Law Government Code Section 16600 *et seq.* In addition, if the CD is not FDIC insured or goes over the FDIC \$250,000 limit, collateral is required equal to 100 percent of principal.

Collateral for Repurchase Agreements shall be 102 percent of market value of principal and accrued interest. Collateral can be either US Treasury securities or Federal Agency securities. This will provide an addition level of security due to inevitable changes in market conditions.

Collateral will always be held by an independent third party with whom the City has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the City and retained. The right of collateral substitution is granted within the parameters and constraints of this Policy.

## Investment Pools

Government sponsored investment pools (Pools) are permitted under California Government Code Section 53601 *et seq.* and are an excellent short-term investment option for cash management facilities. These pools can provide safety, liquidity, and yield in a single diversified investment. However, thoughtful investigation and due diligence are required both initially at time of purchase and on an ongoing basis with analysis to determine that the investment pool is being managed in a manner consistent with the objectives of the Policy. The following guidelines include, but are not limited to:

- The Pool shall have attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations, or shall be insured by a municipal insurance corporation.
- The Pool marks to market weekly at a minimum.
- The Pool provides comprehensive, timely monthly reports which include detailed transaction listings, report realized and unrealized gains and losses, provide accurate market values for each security, provide quality rating for individual securities, take delivery DVP, provide third party safekeeping of all investments, and for whom an audit is conducted annually by an independent auditor with no relationship to the Pool.

## Money Market Mutual Funds

Money market mutual funds provide another safe, liquid, and diversified investment option for the City's surplus capital. However, certain conditions need to be met both initially and on an ongoing basis. The money market may only invest in US Government securities permitted under this policy and under California Government Code Section 53601 *et seq.* with final stated maturities of one year or less "Government Money Market Funds."

In order to be an eligible money market investment under this section, the primary objective of the money market, as stated in the funds prospectus, is to maintain a constant \$1.00 Net Asset Value (NAV). The following additional guidelines include, but are not limited to:

- The money market only invests in US Government securities, and the weighted average maturity of the portfolio is less than 180 days.
- The fund shall be registered with the SEC.
- The money market shall have attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations and shall maintain these ratings for the duration of the investment.

## Maturity Limits

The longer the maturity of securities, the greater the market volatility. Therefore, the maximum maturity limit for any given security in the investment portfolio shall not exceed five (5) years.

It is also important to note that specific investments, detailed under the "Authorized and Suitable Investments" section, may be restricted to a shorter maturity.

The weighted average life of the portfolio may not exceed three (3) years in duration.

At a minimum, 10 percent of the portfolio shall remain liquid, accessible on demand by the City without restriction or penalty.

The investment portfolio shall be structured for liquidity purposes; therefore, 25 percent of the portfolio shall not exceed a 90-day weighted average maturity.

Maturities will be selected based on a sufficiently detailed cash flow projection that facilitates selecting investment maturity dates to approximately match the projected dates of budgeted expenditures. Once cash flow needs are matched, maturities are selected based on a “laddering strategy” and the shape of the yield curve.

Extensions in the maximum maturity and average weighted life of the portfolio must be supported by detailed cash flow forecasts demonstrating the adequacy of cash from maturing assets to meet one hundred twenty-five percent (125%) of monthly expenditures for each prospective quarter, ending with the current maximum including capital expenditures funded on a pay-as-you-go basis. Recommendations to extend maturities must be reviewed and approved by the City Manager and City Council.

### **Qualifications for Financial Institutions and Broker/Dealer’s**

The Treasurer will maintain a list of qualified financial institutions and broker/dealers authorized to transact business with the City, as stated in Appendix “B”. The financial entities eligible to transact investment business with the City are:

I. Federal Reserve Bank:

Direct purchase of U.S. Treasury Bills, Notes, and Bonds using primary government dealers as designated by the Federal Reserve are exempt from quality requirements and are encouraged due to commission or mark-up discounts.

II. Nationally or State Chartered Banks, Savings and Loans, and Credit Unions:

The City may purchase investments offered from Banks, Savings and Loans, and Credit Unions provided the institutions are:

- Nationally or State Chartered Institutions.
- Registered as investment securities dealers.
- Ranked in the top 15 percent of institutions within their respective peer group.
- The signatures of two individuals shall be required for the opening and closing of any bank account (the Treasurer, City Manager, Mayor, or Mayor Pro Tem). The Accounting Officer, who is independent of the investment function, shall keep a record of all opened and closed accounts. On an annual basis, the Accounting Officer shall provide a list of accounts to the independent auditor.

III. Broker/Dealers:

The City will purchase investments from primary dealers whenever possible. However, if an investment deemed appropriate for the portfolio is not available through the primary market, then the Treasurer may use an authorized broker/dealer from the pre-approved list of broker/dealers on record.

For a broker/dealer to be considered for placement on the pre-approved list, they must comply with the following:

- Primary or Regional dealers that qualify for SEC Rule 15c3-1
- Provide audited financial statements from the two most frequent years

- A statement certifying that the institution has reviewed the City’s Investment Policy and California Government Code Section 53600 *et seq.* and that all securities offered to the City shall comply fully with all provisions of the Policy and the California Government Code.
- The signatures of two individuals shall be required for the opening and closing of any broker/dealer account (the Treasurer, City Manager, Mayor or Mayor Pro Tem). The Accounting Officer, who is independent of the investment function, shall keep a record of all opened and closed accounts. On an annual basis, the Accounting Officer shall provide a list of accounts to the independent auditor.
- Settlement of securities traded through qualified broker/dealers shall occur trade date plus three days (T3), the current industry standard.

The Treasurer is responsible for ensuring that settlement occurs in a timely matter and that execution confirmations reflect accurate trade data. In addition, investment transactions are required to be Delivery v. Payment (DVP).

## Diversification Guidelines and Risks

The City recognizes diversification is an investment strategy that will mitigate risk in the investment portfolio. The City’s investment portfolio shall be diversified to avoid incurring unreasonable and avoidable risks with regard to specific investment types. Within investment types, the City shall also maintain a mix of securities to avoid concentrations within individual financial institutions, geographic areas, industry types, and maturities.

The City will only invest in fixed rate, fixed maturity securities and, with the exception of U.S. Treasury securities or the Local Agency Investment Fund (LAIF), no more than 60 percent of the investment portfolio shall be invested in any single investment type or financial institution.

## Safekeeping and Custody

All security transactions, including collateral for repurchase agreements and certificates of deposit, shall be transacted on a Delivery vs. Payment (DVP) basis. This means that the securities shall be delivered to the City or the City’s designated custodian upon receipt of payment by the City.

All securities that may be purchased, including collateral, shall be held by a third-party custodian designated by the Treasurer whenever possible. These securities shall be held in the City’s name and control, and the third-party custodian shall be evidenced by safekeeping receipts. The third-party custodian shall send the City, on a monthly basis, a summary of safekeeping assets, and this statement shall be reconciled to the City’s records on a monthly basis. Securities held in custody for the City shall be independently audited on an annual basis to verify investment holdings.

## Performance Standards and Evaluation

Investment performance is continually monitored and evaluated by the City Treasurer. Investment activity reports are generated on a monthly basis for presentation to the City Manager and City Council.

The weighted average maturity of the pooled portfolio shall not exceed three years and shall be designated to attain a market average rate of return. The market average rate of return will

be determined by a custom benchmark that represents the prominent and persistent characteristics of the portfolio.

In addition to the three-year maturity average, the portfolio shall be structured for liquidity purposes, and 25 percent of the investment portfolio shall not exceed 90 days weighted average maturity. The independent auditor will annually verify that the portfolio conforms to the maturity requirements described above.

An annual audit of the City's Investment Policy, practices, procedures, and portfolio status will be conducted by an independent auditor of all items including, but not limited to, items specified in the Audit Checklist provided in the City's Procedure Manual. The auditor will provide the City Manager and City Council with written observations and recommendations regarding the adequacy of investment controls.

## **Qualifications and Continuing Education**

The City Treasurer shall be a City employee or contract employee. The Treasurer shall be selected on the basis of educational background and experience relevant to the Treasury function.

The City recognizes the need for and is committed to providing ongoing education specific to the investment function for the Treasurer and other City staff and officials involved in the investment process.

## GLOSSARY OF TERMS

**Accrued Interest** - Interest earned but not yet received.

**Active Deposits** - Funds which are immediately required for disbursement.

**Agencies** - Federal agency securities and/or Government-sponsored enterprises.

**Amortization** - An accounting practice of gradually decreasing (increasing) an asset's book value by spreading its depreciation (accretion) over a period of time.

**Asking Price** - The price a broker/dealer offers to sell securities. See Offer

**Bankers' Acceptance (BA)** - A "draft" or bill of exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**Basis Point** - One basis point is one hundredth of one percent (.01).

**Bear Market** - A period of generally pessimistic attitudes and declining market prices.

**Bid** - The price offered by a buyer of securities. (When you are selling securities, you ask for a bid.) See Offer.

**Bond** - A financial obligation for which the issuer promises to pay the bondholder a specified stream of future cash flows, including periodic interest payments and a principal repayment.

**Book Value** - The value at which a debt security is shown on the holder's balance sheet. Book value is acquisition cost less amortization of premium or plus accretion of discount.

**Broker** - A broker brings buyers and sellers together for a commission.

**Bull Market** - A period of generally optimistic attitudes and increasing market prices.

**Callables** - Securities that the issuer has the right to redeem prior to maturity.

**Certificate of Deposit** - A time deposit with a specific maturity, evidenced by a certificate. Large-denomination CD's are typically negotiable. CD's may be eligible for FDIC insurance.

**Collateral** - Securities, evidence of deposit, or pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposit of public moneys.

**Commercial Paper** - Short-term, unsecured promissory notes issued by a corporation to raise working capital. These negotiable instruments are purchased at a discount to par value or at par value with interest bearing.

**Comprehensive Annual Financial Report (CAFR)** - The official annual financial report for the City. It includes government-wide and fund financial statements prepared in conformity with Generally Accepted Accounting Principals (GAAP).

**Constant Maturity Treasury (CMT)** - An average yield of a specific Treasury maturity sector for a specific time frame, or an index of the average yield on United States Treasury securities adjusted to a constant maturity. This is a market index for reference of past direction of interest rates for the given Treasury maturity range.

**Coupon** - The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value.

**Credit Analysis** - A critical review and appraisal of the economic and financial conditions or of the ability to meet debt obligations.

## GLOSSARY OF TERMS (continued)

**Current Yield** - The interest paid on an investment expressed as a percentage of the current price of the security.

**Custody** - A banking service that provides safekeeping for the individual securities in a customer's investment portfolio under a written agreement which also calls for the bank to collect and pay out income, to buy, sell, receive, and deliver securities when ordered to do so by the principal.

**Debenture** - A bond secured only by the general credit of the issuer.

**Delivery v. Payment (DVP)** - Delivery of securities with a simultaneous exchange of payment for the securities.

**Demand Deposit Account** - Accounts whose balance is available to meet immediate cash needs (maturities up to 7 days).

**Derivatives** - (1) Financial instruments whose return profile is linked to, or derived from, the security and may include a leveraging factor, or (2) financial contracts based upon notional amount whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities, or commodities).

**Discount** - The difference between the cost of a security and its value at maturity when quoted at lower than face value.

**Discount Securities** - Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U. S. Treasury Bills.

**Diversification** - Dividing investment funds among a variety of securities offering independent return and risk profiles.

**Duration** - The weighted average maturity of a bond's cash flow stream, where the present value of the cash flows serves as the weights; the future point in time at which, on average, an investor has received exactly half of the original investment in present value terms; a bond's zero-coupon equivalent; the fulcrum of a bond's present value cash flow time line.

**Fannie Mae** - Trade name for the Federal National Mortgage Association (FNMA).

**Federal Credit Agencies** - Agencies of the Federal Government set up to supply credit to various classes of institutions and individuals, e.g., Savings and Loans, small business firms, students, farmers, farm cooperatives, and exporters.

**Federal Deposit Insurance Corporation (FDIC)** - Insurance provided to customers of a subscribing bank, which guarantees deposits to a set limit (currently \$100,000) per account.

**Federal Funds Rate** - The rate of interest at which Federal funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**Federal Home Loan Banks (FHLB)** - Government-sponsored wholesale banks which lend funds and provide correspondent banking services to member commercial banks, thrifty institutions, credit unions, and insurance companies. The mission of the FHLBs is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

## GLOSSARY OF TERMS (continued)

**Federal Home Loan Mortgage Corporation (FHLMC)** - The FHLMC was created under the Federal Home Loan Mortgage Act, Title III of the Emergency Home Finance Act of 1970 as a stockholder-owned government-sponsored enterprise. Freddie Mac, as the corporation is called, is charged with providing stability and assistance to the secondary home mortgage market by buying first mortgages and participation interests and reselling these securities in the form of guaranteed mortgage securities. Although agency obligations are not explicitly guaranteed by the federal government, the rating agencies believe that in the unlikely event of financial difficulties, the federal government will support the agency to the extent necessary to provide for full and timely payment on their securities.

**Federal National Mortgage Association (FNMA)** - FNMA, like GNMA, was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**Federal Open Market Committee (FOMC)** - Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

**Federal Reserve System** - The central bank of the U. S. which consists of a seven-member Board of Governors, 12 regional banks, and 5,700 commercial banks that are members.

**Fed Wire** - A wire transmission service established by the Federal Reserve Bank to facilitate the transfer of funds through debits and credits of funds between participants within the Fed system.

**Freddie Mac** - Trade name for the Federal Home Loan Mortgage Corporation (FHLMC).

**Ginnie Mae** - Trade name for the Government National Mortgage Association (GNMA).

**Government National Mortgage Association (GNMA)** - Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by the full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA, or FmHA mortgages. The term "pass-throughs" is often used to describe Ginnie Maes.

**Inactive Deposits** - Funds not immediately needed for disbursements.

**Interest Rate** - The annual yield earned on an investment, expressed as a percentage.

**Investment Agreements** - An agreement with a financial institution to borrow public funds subject to certain negotiated terms and conditions concerning collateral, liquidity, and interest rates.

## GLOSSARY OF TERMS (continued)

**LAIF (Local Agency Investment Fund)** - A special fund in the State Treasury which local agencies may use to deposit funds for investment. There is no minimum investment period, and the minimum transaction is \$5,000, in multiples of \$1,000 above that, with a maximum balance of \$50,000,000 for any agency. It offers high liquidity because deposits can be converted to cash in 24 hours and no interest is lost. All interest is distributed to those agencies participating on a proportionate share basis determined by the amounts deposited and the length of time they are deposited. Interest is paid quarterly. California Government Code §16429.3 states, in part:

"money placed with the State Treasurer for deposit in the Local Agency Investment Fund by cities, counties, or special districts shall not be subject to impoundment or seizure by any state official or state agency."

**Liquidity** - Refers to the ability to rapidly convert an investment into cash with minimal risk of losing some portion of principal and/or interest.

**Local Government Investment Pool (LGIP)** - The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

**Market Value** - The price at which a security is trading and could presumably be purchased or sold.

**Master Repurchase Agreement** - A written contract covering all future transactions between the parties to repurchase and/or reverse repurchase agreements that establishes each party's rights in the transactions. A master agreement will specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

**Maturity** - The date upon which the principal or stated value of an investment becomes due and payable.

**Medium Term Corporate Notes** - Unsecured promissory notes issued by a corporation organized and operating in the United States. These are negotiable instruments and are traded in the secondary market. Medium term corporate notes can be defined as extended maturity commercial paper. Local agencies are restricted by the Government Code to investments in corporations rated in the top three note categories by Moody's Investors Service, Inc., and/or Standard and Poor's Corporation. For medium term notes, eligible purchases consist of instruments that have a rating of "A" or better by both Moody's Investors Service, Inc., and Standard and Poor's Corporation.

**Money Market** - The market in which short-term debt instruments (bills, commercial paper, banker's acceptances, etc.) are issued and traded.

**Negotiable Certificates of Deposit** - Unsecured obligations of the financial institution, or bank, bought at par value with the promise to pay face value plus accrued interest at maturity. They are high-grade negotiable instruments, paying a higher interest rate than regular certificates of deposit. The primary market issuance is in multiples of \$1,000,000; the secondary market usually trades in denominations of \$500,000, although smaller lots are occasionally available. As a matter of practice, only the ten largest U.S. banks where there is a secondary market established for continued liquidity would be considered for investment.

## GLOSSARY OF TERMS (continued)

**NRSRO** - Nationally recognized statistical-rating organization

**New Issue** - Term used when a security is originally "brought" to market.

**Offer** - The price asked by a seller of securities. (When you are buying securities, you ask for an offer.) See Asking Price and Bid.

**Open Market Operations** - Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserve into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**Paper Gain or Loss** - Term used for unrealized gain or loss on securities being held in a portfolio based on comparison of current market quotes and their original cost. This situation exists as long as the security is held while there is a difference between cost value (book value) and the market value.

**Perfected Delivery** - Refers to an investment where the actual security or collateral is held by an independent third party representing the purchasing entity.

**Portfolio** - Collection of securities held by an investor.

**Primary Dealer** - A group of government securities dealers that submit daily reports of market activity and security positions held to the Federal Reserve Bank of New York and are subject to its informal oversight.

**Prudent Person Rule** - An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state - the so-called legal list. In other states, the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**Purchase Date** - The date in which a security is purchased for settlement on that or a later date.

**Qualified Public Depositories** - A financial institution that does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less approved by the Public Deposit Protection Commission to hold public deposits.

**Rate of Return** - The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

**Repurchase Agreement (RP or REPO)** - A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, or increasing bank reserves.

## GLOSSARY OF TERMS (continued)

**Reverse Repurchase Agreement (Reverse REPO)** - A transaction where the seller (City) agrees to buy back from the buyer (bank) the securities at an agreed upon price after a stated period of time.

**Risk** - Degree of uncertainty of return on an asset.

**Safekeeping** - See Custody.

**Secondary Market** - A market made for the purchase and sale of outstanding issues following the initial distribution.

**Securities and Exchange Commission** - Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**SEC Rule 15(C)3-1** - See Uniform Net Capital Rule.

**Settlement Date** - The date on which a trade is cleared by delivery of securities against funds.

**Spread** - a) The yield or price difference between the bid and offer on an issue; b) the yield or price difference between different issues.

**Structured Notes** - Notes issued by government-sponsored enterprises (FHLB, FNMA, etc.) and corporations that have imbedded options (e.g., call features, step-up coupons, floating rate coupons, derivative-based returns) in their debt structure. Their market performance is impacted by the fluctuation of interest rates, the volatility of the imbedded options, and shifts in the shape of the yield curve.

**Swap** - The sale of one issue and the simultaneous purchase of another for some perceived advantage.

**Treasury Bills** - A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

**Treasury Bonds** - Long-term coupon-bearing U. S. Treasury securities issued as direct obligations of the U. S. Government and having initial maturities of more than ten years.

**Treasury Notes** - Medium-term coupon-bearing U. S. Treasury securities issued as direct obligations of the U. S. Government and having initial maturities from two to ten years.

**Uniform Net Capital Rule** - Securities and Exchange Commission requirement that member firms, as well as nonmember broker-dealers in securities, maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

**U.S. Government Agencies** - Instruments issued by various U.S. Government Agencies, most of which are secured only by the credit worthiness of the particular agency.

**Yield** - The rate of annual income return on an investment, expressed as a percentage. It is obtained by dividing the current dollar income by the current market price of the security.

**Yield to Maturity** - The rate of income return on an investment, minus any premium or plus any discount, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond, expressed as a percentage.

## QUALIFIED BROKER/DEALERS

The City has qualified the following Broker/Dealer's:

- Cantella & Co. Inc
- Great Pacific Securities
- Higgins Capital
- Morgan Stanley
- Multi-Bank Securities, Inc
- Mutual Securities, Inc
- Raymond James & Associates, Inc.
- Time Value Investments
- UBS Financial Services, Inc
- Wedbush Securities

## **ADMINISTRATIVE POLICY**

### **Investment Guidelines, Strategy, and Internal Control**

# City of Aliso Viejo

## **AGENDA ITEM**



DATE: September 7, 2022

TO: Mayor and City Council

FROM: Shaun Pelletier, City Engineer

SUBJECT: FIRST AMENDMENT TO THE AGREEMENT FOR SOLID WASTE CONSULTING SERVICES

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### **Recommended Actions:**

1. Approve a First Amendment to the Agreement with HF&H Consultants, LLC for Solid Waste Consulting Services to extend the term for two (2) years and to increase the agreement amount by \$50,000 for a total agreement amount of \$100,000;
2. Authorize the City Manager to approve additional funding to the agreement in an amount not to exceed \$15,000, if necessary; and
3. Authorize the City Manager to execute the First Amendment to the Agreement.

### **Fiscal Impact:**

The cost for the services provided under the amendment is \$50,000. In addition, a not-to-exceed amount of \$15,000 is provided for additional services in the event the audit necessitates expanding the scope of services. All costs associated with the audit are reimbursed by the waste hauler; therefore, there is no impact to the General Fund.

### **Background:**

HF&H completed negotiations of the restated solid waste franchise agreement last year. An agreement with HF&H was entered on October 29, 2019, for Solid Waste Consulting Services to provide compliance audits of the solid waste hauler CR&R's performance.

### **Discussion:**

Per the agreement with CR&R, the records, accounting records, and records of affiliated companies if any, shall be subject to audit and inspection, for the primary purpose of reviewing billing operations, accounts receivable, and customer service, by the City, its auditors or other agents, at any reasonable time. The contractor is required fund triennial

audits. The hauler-funded audit, to be performed during 2022, will be based on the Contractor's reports and records for calendar year 2021.

The audit will also review tonnage (diversion) reports, customer service records, and equipment ages for compliance with the agreement.

HF&H is a reputable firm and an expert in solid waste agreements. Staff respectfully recommends approval of the First Amendment to allow them to complete the compliance audit of the solid waste hauler's performance.

**Attachment:**

1. Agreement Amendment

**CITY OF ALISO VIEJO**  
**FIRST AMENDMENT TO**  
**SOLID WASTE CONSULTING SERVICES**

**1. PARTIES AND DATE.**

This First Amendment to the Agreement for Solid Waste Consulting Services (“First Amendment”) is entered into on the \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the City of Aliso Viejo (hereinafter referred to as the “City”) and **HF&H Consultants, LLC** (hereinafter referred to as the “Consultant”). City and Consultant are sometimes collectively referred to herein as the “Parties.”

**2. Recitals.**

2.1 Agreement. The Parties entered into an agreement entitled Agreement for Solid Waste Consulting Services dated October 29, 2019 (“Agreement”).

2.2 First Amendment. The Parties now desire to amend the Agreement in order to renew the Agreement for an additional two-year term and increase total compensation under the Agreement by **Fifty Thousand Dollars (\$50,000)**.

**3. Terms.**

3.1 Term. Term shall be extended to expire June 30, 2024.

3.2 Scope of Services. Scope of services shall be revised from Original Agreement as referenced in Exhibit A.

3.3 Compensation. Contractor shall receive compensation in the amount of **Fifty Thousand Dollars (\$50,000)**, including authorized reimbursements, for all Services rendered under this First Amendment at the rates set forth in Exhibit “B” attached hereto and incorporated herein by reference.

The total compensation for the Services provided pursuant to the Agreement and First Amendment shall not exceed **One Hundred Thousand Dollars (\$100,000)** without written approval of the City Manager. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Second Amendment at the rates set forth in Exhibit “C” attached to the Agreement and incorporated herein by reference.

3.4 Extra Work. At any time during the term of this Second Amendment, City may request that Consultant perform Extra Work. As used herein, “Extra Work” means any work which is determined by City to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Fourth Amendment. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the City. The City Manager may approve Extra Work, provided the cost of the Extra Work does not exceed \$15,000. Any Extra Work in excess of this amount shall be approved by the City Council.

3.5 Declaration of Political Contributions. Prior to the City's approval of this Amendment, Contractor shall submit to City a statement in writing declaring any political contributions of money, in-kind services, or loan made to any member of the City Council within the previous twelve-month period by the Contractor and all of their employees, including any employee(s) that Contractor intends to assign to perform the Services described in this Second Amendment.

3.6 Continuing Effect of Agreement. Except as otherwise specifically set forth in this First Amendment, the remaining provisions of the Agreement shall remain in full force and effect. From and after the date of this First Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Second Amendment.

3.7 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Second Amendment.

3.8 Counterparts. This First Amendment may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument.

**SIGNATURE PAGE FOR FIRST AMENDMENT TO SOLID WASTE CONSULTING SERVICES BETWEEN THE CITY OF ALISO VIEJO AND HF&H CONSULTANTS, LLC**

IN WITNESS WHEREOF, the parties have executed this First Amendment to Agreement on this \_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF ALISO VIEJO**

**HF&H CONSULTANTS, LLC**

By: \_\_\_\_\_  
David A. Doyle  
City Manager

By: *Laura Egart*  
Name: Laura Egart  
Title: Senior Vice President

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Mitzi Ortiz, MMC  
City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Best Best & Krieger LLP  
City Attorney

**APPROVED AS TO COMPLIANCE WITH BUDGET**

By: \_\_\_\_\_  
Ann Eifert  
Director of Financial Services

CITY OF ALISO VIEJO

DECLARATION OF POLITICAL CONTRIBUTIONS

Using the space provided below, please list any political contributions of money, in-kind services, or loans made to any member of the City Council within the last twelve (12) months by Consultant and all of Consultant's employees, including any employee(s) that applicant intends to assign to perform the work or services described in this Agreement:

None

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To the best of my knowledge, I declare under penalty of perjury that the foregoing is true and was executed at:

Newport Beach / Orange County / CA      8/16/2022  
City/County/State      Date

HFTH CONSULTANTS      LAITH EZZET  
Name of Business      Print Name

*Laith Ezzet*  
Signature

NOTE: THIS DECLARATION IS INCLUDED AS PART OF THE AGREEMENT AND MUST BE SIGNED AND ATTACHED HERETO.

**CITY OF ALISO VIEJO**

**ACKNOWLEDGMENT OF RECEIPT OF FRAUD POLICY**

I hereby acknowledge that I have received a copy of the City's "Fraud Prevention Policy" dated October 1, 2008. I understand that I am to promptly read its contents and distribute copies to employees assigned to perform Services for the City of Aliso Viejo.

To the extent that provisions of this policy conflict with previously issued policies or practices, whether or not such policies and practices were contained in written policies, this policy shall prevail.

HFOH CONSULTANTS  
Name of Business

LAILA EZZEI  
Print Name

[Signature]  
Signature

8/16/2022  
Date

**EXHIBIT "A"**  
**TO FIRST AMENDMENT TO**  
**SOLID WASTE CONSULTING SERVICES**

**SCOPE OF SERVICES**

**Attached**

2081 Business Center Drive, Suite 265  
Irvine, California 92612  
Telephone: 949/251-8628  
Fax: 949/251-9741  
[www.hfh-consultants.com](http://www.hfh-consultants.com)

Robert D. Hilton, CMC, Emeritus  
John W. Farnkopf, PE  
Laith B. Ezzet, CMC  
Richard J. Simonson, CMC  
Marva M. Sheehan, CPA  
Robert C. Hilton

August 15, 2022

Mr. Shaun Pelletier  
Public Works Director/City Engineer  
City of Aliso Viejo  
12 Journey, Suite 100  
Aliso Viejo, California 92656

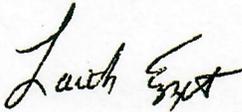
**Solid Waste Franchise Agreement Compliance Audit Scope of Work**

Dear Shaun:

Enclosed please find our scope of work and fee estimate to perform a solid waste management franchise agreement compliance audit.

We look forward to assisting the City of Aliso Viejo with this project. If you have any questions about this scope of work, please call me at (949) 251-8902.

Very truly yours,



Laith Ezzet, CMC  
Senior Vice President

Attachment – Scope of Work

## CITY OF ALISO VIEJO

### SOLID WASTE FRANCHISE AGREEMENT COMPLIANCE AUDIT TO BE PERFORMED BY HF&H CONSULTANTS, LLC

#### SCOPE OF WORK

#### BACKGROUND

The City of Aliso Viejo (“the City”) negotiated a solid waste management franchise agreement (“Agreement”) with CR&R, Incorporated (“Contractor”) in December 2005 for residential and commercial solid waste services. The Agreement was amended and restated in 2021. Section 8.2.8 of the Agreement provides for hauler-funded triennial audits. The first audit is based on calendar year 2021 results. The Contractor must reimburse the City’s audit costs; the reimbursement amount per Section 8.2.8 of the Agreement as adjusted for the CPI is \$54,715 in 2022 dollars.

#### PROJECT OBJECTIVES

The objectives of the audit are to:

1. Verify credit was given to customers erroneously billed for organics service prior to receipt of an organics container
2. Confirm accuracy of franchise fee payments
3. Verify disposal tonnage reported to the City is consistent with Contractor’s records and data reported to the Orange County Landfill System
4. Verify compliance with minimum diversion requirements
5. Verify CR&R submitted the customer service report on a quarterly basis, as outlined in Section 8.3.4.C of the Agreement, and took action on logged complaints in accordance with the requirements of the Agreement
6. Confirm that collection vehicles used within the City comply with the Agreement age requirements
7. Confirm educational program costs dedicated to the City have a budget of 1% of the gross receipts of the Contractor’s and affiliated companies from all operations in the City
8. Confirm that Contractor is performing site visits as required under Section 5.3.1

#### **SCOPE OF WORK**

##### **Task 1: Develop Audit Work Plan**

Purpose: It is important the City’s objectives for the engagement are fully understood and that our work plan be designed to meet those objectives.

### **Review existing background documents**

We will review the existing documents, including but not limited to:

- The Integrated Solid Waste Management Services Franchise Agreement
- Hauler monthly and annual reports submitted to the City, as applicable
- Hauler remittance of City fees with calculation detail
- Other available contract-related documents

### **Meet and consult with City staff**

We will prepare for and conduct a virtual meeting with City staff to confirm the understanding of the project objectives and schedule, and to determine issues, if any, the City has that may need to be addressed during the review. Based on our understanding of the objectives, we will prepare a data request for the Contractor. If desired by the City, we will review the data request with City staff prior to submitting to the Contractor to determine if additional information may be available from the City, and to revise the request, if necessary, based on a greater understanding of the City's objectives.

## **Task 2: Data Request**

### **Data Request Preparation**

Based on the results of our planning procedures from Task 1, we will prepare and provide a document request list to Contractor. Additionally, if necessary, we may also request data from third parties to assist in confirming hauler-reported data. Examples of hauler data to be requested may include, but are not limited to:

- Customer lists and billing details
- Gross receipts details
- City fee payment calculations
- Internal tonnage reports documenting tons collected, diverted, and disposed
- Customer service reports
- Vehicle information
- Educational costs
- Customer billing credit data
- Site visit documentation
- Other data to be reviewed

After transmittal of the data request to Contractor, we will review the audit objectives, audit process, and documents needed to complete the audit to ensure they have an understanding of what is expected during the review process. This helps ensure time spent on the audit is on actual audit test work rather

than communication issues. Finally, we will follow up with Contractor to ensure the data requested is provided to us in a timely manner in order to remain on schedule. Hauler-submitted data will be reviewed for contract compliance.

### **Task 3: Compliance Review**

The tasks below specifically address our scope and approach to accomplish the City's goals. All meetings will be conducted virtually using screen share.

#### **Task 3.1 Verify credit was given to customers erroneously billed for organics service prior to receipt of an organics container**

The amended and restated agreement includes the collection and processing of source-separated organic materials. Certain customers were charged for organics collection and processing services in advance of receiving their organics container. The Contractor was made aware of this issue and was to issue a credit for all impacted customers.

**Task work:** HF&H will obtain a list of customers who were inappropriately charged for organics in advance of receiving organics related service and the related credits due. We will select a sample and review the invoice with the issued credit.

#### **Task 3.2 Confirm accuracy of franchise fee payments**

Per Section 3.2 of the Agreement, Contractor is to pay the City a franchise fee equal to 7.15% of gross receipts from all solid waste handling services (without deducting disposal costs or any other costs), and 15% of Contractor's gross receipts from construction and demolition waste (minus pass-through costs incurred at disposal or processing facilities used or directed to be used).

**Task work:** In conjunction with our findings under Tasks 3.1 and in 3.2, we will determine the accuracy of franchise fees paid under Agreement.

We will report any determined under or over-payment of fees to the City.

#### **Task 3.3 Verify disposal tonnage reported to the City is consistent with Contractor's records and data reported to the Orange County Landfill System**

Section 8.3.3.B of the Agreement requires that Contractor submit the City all solid waste collection within the City sorted by type of solid waste (refuse, recycling, organics, and any other type of solid waste separately collected) in tons and by customer type (container, bin, roll-off), and the approved facilities and facility types where the tons were processed or disposed, on a monthly basis.

**Task work:** To perform this task, HF&H will:

- Obtain from the City and review the monthly tonnage reports submitted by Contractor for the period under review. These reports should include a schedule of tonnage disposed and diverted by line of service and disposal/diversion/processing location

- Obtain and review Contractor's reports from their internal landfill disposal reporting systems and agree to the tonnage data reported to the City
- Verify the tonnage data reported to the City agrees to the data reported to the Orange County Landfill System

**Task 3.4 Verify compliance with minimum diversion requirements**

Section 4.4.4 of the Agreement requires that Contractor deliver all construction and demolition (C&D) waste material collected within the City to a C&D processing facility to meet at a minimum a 65% diversion rate for these materials.

Section 4.8 of the Agreement requires Citywide diversion rate to not fall below the CalRecycle State-mandated Diversion rate requirement.

**Task work:** HF&H will re-calculate the diversion rate based on diversion information provided in the tonnage report and validate the diversion rate complies with the Agreement.

**Task 3.5 Verify that CR&R submitted the customer service report on a quarterly basis, as outlined in Section 8.3.4.C of the Agreement, and took action on logged complaints in accordance with the requirements of the Agreement**

Section 5.1.2 of the Agreement, Service Complaints and Dispute Resolution, requires the Contractor to maintain records of all complaints received and submit them on a quarterly basis. The Contractor is to use its best efforts to resolve all such complaints within the next business day following the date a complaint is received.

**Task work:** HF&H will request the customer service reports provided to the City on a quarterly basis or maintained by the Contractor. We will review for inclusion of data required.

**Task 3.6 Confirm that collection vehicles used within the City comply with the Agreement age requirements**

Section 4.10.2.C of the Agreements requires that the average age of the collection vehicles regularly used to provide services within the City does not exceed ten years.

**Task work:** HF&H will confirm that the collection vehicles used within the City comply with the age limit requirement.

**Task 3.7 Confirm educational program costs dedicated to the City have a budget of 1% of the gross receipts of the Contractor's and affiliated companies from all operations in the City**

Section 5.2.3 of the Agreement requires that Contractor develop an educational program plan each year, and the program budget will equal 1% of Contractor's gross receipts from all operations in the City.

**Task work:** HF&H will verify that Contractor submitted an educational program plan for 2021 and confirm that Contractor expended 1% of their City gross receipts on education and outreach to residents and businesses within the City.

**Task 3.8 Confirm that Contractor is performing site visits as required under Section 5.3.1**

Per Section 5.3.1 of the Agreement, Contractor was to provide an outreach and technical assistance plan for the AB 341, AB 827, AB 1826, and SB 1383 outreach plan no later than January 1, 2022.

**Task work:** HF&H will obtain and review the outreach and technical assistance plan and determine timely submission and confirm the progress against submitted plan.

**Task 4: Report**

We will provide a written report to the City that:

- A. Documents our audit findings.
- B. Offers recommendations, if applicable, as to how to address discrepancies or inaccuracies in records and reports made to City, methods of assessing the City fees, or surrounding other issues that may arise during our review.
- C. Includes comments, if applicable, regarding the Contractor's compliance with the reviewed agreement terms.

We will provide a draft report to the City for review. We will additionally provide a draft report to the Contractor for acknowledgement and response prior to finalizing the report, and, if applicable, incorporate Contractor's response in the final report. We will revise the report once based on City and Contractor feedback, and submit our final report to the City.

**Task 5: Other Findings and/or Recommendations**

We will provide additional findings and recommendations, if applicable, to the City based on the above tasks.

## FEE ESTIMATE

The estimated cost of the compliance audit is \$50,000. We will bill the City once per month based on the number of hours worked multiplied by our hourly billing rates, plus expenses incurred. Payment is due within 30 days of invoicing.

### Workplan

Task	Description	Sr. Vice President	Sr. Associate	Analyst	Total Hours/Fees
<b>Task 1: Development of Audit Plan</b>		<b>3</b>	<b>10</b>	<b>5</b>	<b>18</b>
<b>Task 2: Data Request</b>		<b>1</b>	<b>5</b>	<b>5</b>	<b>11</b>
<b>Task 3: Compliance Review</b>					
3.1	Verify credit was given to customers erroneously billed for organics service prior to receipt of an organics container	2	8	14	24
3.2	Confirm accuracy of franchise fee payments	1	10	10	21
3.3	Verify disposal tonnage reported to the City is consistent with Contractor's records and data reported to the Orange County Landfill System	1	6	12	19
3.4	Verify compliance with minimum diversion requirements	-	2	4	6
3.5	Verify that CR&R submitted the customer service report on a quarterly basis, as outlined in Section 8.3.4.C of the Agreement, and took action on logged complaints in accordance with the requirements of the Agreement	-	2	4	6
3.6	Confirm that collection vehicles used within the City comply with the Agreement age requirements	-	1	4	5
3.7	Confirm educational program costs dedicated to the City have a budget of 1% of the gross receipts of the Contractor's and affiliated companies from all operations in the City	-	5	8	13
3.8	Confirm that Contractor is performing site visits as required under Section 5.3.1.	2	8	16	26
<b>Total</b>		<b>6</b>	<b>42</b>	<b>72</b>	<b>120</b>
<b>Task 4: Report</b>		<b>8</b>	<b>36</b>	<b>40</b>	<b>84</b>
<b>Task 5: Other Findings and/or Recommendations</b>		<b>1</b>	<b>5</b>	<b>-</b>	<b>6</b>
Total Hours		19	98	122	239
Hourly Rates		\$ 315	\$ 225	\$ 179	
<b>Total Fees</b>		<b>\$ 5,985</b>	<b>\$ 22,050</b>	<b>\$ 21,838</b>	<b>\$ 49,873</b>
Expenses					\$ 127
<b>Total Fees and Expenses</b>					<b>\$ 50,000</b>

## Professional Fees

Hourly rates through December 31, 2022, for professional and administrative personnel are as follows, and are subject to adjustment January 1, 2023, by 3.5%:

<u>Position</u>	<u>Rate</u>
Senior Vice President	\$315
Senior Project Manager	\$289
Senior Associate/Project Manager	\$225-\$265
Associate Analyst	\$179
Assistant Analyst	\$120 - \$140
Administrative Analyst	\$120-\$135

## Direct Expenses

Standard charges for common direct expenses are as follows:

Automobile Travel	Prevailing IRS mileage rate
Airfare and Public Transit	Actual Cost

**EXHIBIT "B"**  
**TO FIRST AMENDMENT TO**  
**SOLID WASTE CONSULTING SERVICES**

**COMPENSATION**

Rates as indicated in Exhibit A.

# City of Aliso Viejo

## **AGENDA ITEM**



DATE: September 7, 2022

TO: Mayor and City Council

FROM: Lizzy Mendoza, Recreation & Community Services Manager

SUBJECT: FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT WITH LYON'S SECURITY SERVICE INC. FOR FACILITY RESERVATION SECURITY SERVICES HELD AT ALISO VIEJO RANCH

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### **Recommended Action:**

Approve and authorize the City Manager to execute the First Amendment to the Professional Services Agreement with Lyon's Security Service, Inc. for facility reservation security services held at Aliso Viejo Ranch to extend the term for three years and amend the compensation rates.

### **Fiscal Impact:**

The cost of security services is fully reimbursed by the customer renting the facility. There is no financial impact to the General Fund.

### **Background:**

The City and Lyon's Security Service, Inc. entered into the original agreement on January 1, 2021, for a three-year term with two optional one-year extensions for security services for facility reservations held at Aliso Viejo Ranch.

### **Discussion:**

Lyon's Security Service, Inc. is secured by City staff for facility reservations that include alcohol services or with guest attendance of over 100 persons. A minimum of two security guards are required for each event. The renter of Aliso Viejo Ranch covers the cost of the security services.

The hourly rate per security guard will increase from \$26.50 to \$28 for the remainder of the year. This is a 5.6% increase. In 2023, the hourly rate will increase from \$27.50 to \$30 per guard. This is a 9% increase.

Staff has been pleased with the security services performed by Lyon's Security Service, Inc. The scope of work includes but is not limited to protecting the safety of personnel and properties onsite, enforcing the rules and regulations pertaining to facility rentals, and reporting any incident or accident. In addition to providing quality services while onsite, Lyon's Security Service, Inc.'s management team provides great customer service, is highly responsive, meets deadlines, and maintains good records.

Staff recommends City Council approve a three-year agreement amendment, with rates adjusted and fixed over that term for continued security services for the facility rentals held at Aliso Viejo Ranch.

**Attachment:**

1. Agreement Amendment

**CITY OF ALISO VIEJO**  
**FIRST AMENDMENT TO**  
**SECURITY SERVICES AGREEMENT**

**1. PARTIES AND DATE.**

This First Amendment to the SECURITY SERVICES (“First Amendment”) is entered into on the 15th day of August, 2022, by and between the City of Aliso Viejo (hereinafter referred to as the “City”) and Lyons Security Services (hereinafter referred to as the “Contractor”). City and Contractor are sometimes collectively referred to herein as the “Parties.”

**2. RECITALS.**

2.1 Agreement. The Parties entered into an agreement entitled SECURITY SERVICES dated August 15, 2022 (“Agreement”).

2.2 First Amendment. The Parties now desire to amend the Agreement to extend the initial Term of the Agreement and prescribe compensation to be paid by facility patrons in connection therewith.

**3. TERMS.**

3.1 Amendment.

The following Sections of the Agreement are amended to read as follows:

“3.1.2 Term. The term of this Agreement shall be from **January 1, 2021 to December 31, 2025**, unless earlier terminated as provided herein. The City Manager shall have the unilateral option, at its sole discretion, to renew this Agreement annually for no more than two additional one-year terms. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines.

\* \* \*

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Amended Exhibit "C" attached to this First Amendment and incorporated herein by reference. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.”

3.2 Declaration of Political Contributions. Prior to the City’s approval of this Amendment, Contractor shall submit to City a statement in writing declaring any political contributions of money, in-kind services, or loan made to any member of the City Council within the previous twelve-month period by the Contractor and all of their employees, including any

employee(s) that Contractor intends to assign to perform the Services described in this First Amendment.

3.3 Continuing Effect of Agreement. Except as otherwise specifically set forth in this First Amendment, the remaining provisions of the Agreement shall remain in full force and effect. From and after the date of this First Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this First Amendment.

3.4 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this First Amendment.

3.5 Counterparts. This First Amendment may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument.

**SIGNATURE PAGE FOR FIRST AMENDMENT TO SECURITY SERVICES  
BETWEEN THE CITY OF ALISO VIEJO AND LYONS SECURITY SERVICE**

IN WITNESS WHEREOF, the parties have executed this First Amendment to Agreement  
on this \_\_\_th day of \_\_\_\_\_, 2022.

**CITY OF ALISO VIEJO**

**LYONS SECURITY SERVICE, INC.**

Approved:

**[If Corporation, TWO SIGNATURES,  
President OR Vice President AND Secretary  
OR Treasurer REQUIRED]**

By: \_\_\_\_\_  
David Doyle  
City Manager

By: N. G. Guidice  
Its: President \_\_\_\_\_

**ATTEST:**

Printed Name: Nicholas Guidice

By: \_\_\_\_\_  
Mitzi Ortiz, MMC  
City Clerk

By: N. G. Guidice  
Its: Secretary \_\_\_\_\_

**APPROVED AS TO FORM:**

Printed Name: Nicholas Guidice

By: \_\_\_\_\_  
Best Best & Krieger LLP  
City Attorneys

**APPROVED AS TO COMPLIANCE  
WITH BUDGET:**

By: \_\_\_\_\_  
Ann Eifert  
Director of Financial Services

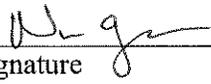


**CITY OF ALISO VIEJO**

**ACKNOWLEDGMENT OF RECEIPT OF FRAUD POLICY**

I hereby acknowledge that I have received a copy of the City's "Fraud Prevention Policy" dated October 1, 2008. I understand that I am to promptly read its contents and distribute copies to employees assigned to perform Services for the City of Aliso Viejo.

To the extent that provisions of this policy conflict with previously issued policies or practices, whether or not such policies and practices were contained in written policies, this policy shall prevail.

<u>Lyons Security Service Inc.</u>	<u>Nicholas Guidice</u>
Name of Business	Print Name
<u></u>	
Signature	
<u>Aug 16 2022</u>	
Date	

**EXHIBIT "B"**  
**TO FIRST AMENDMENT TO**  
**SECURITY SERVICES**

**COMPENSATION**

Item Line	2021	2022	2023	2024
Hourly rate for non-alcohol events per security guard	\$25.85	\$28.00	\$30.00	\$31.50
Hourly rate for alcohol events per security guard	\$25.85	\$28.00	\$30.00	\$31.50
Minimum number of hours of services (if any)	4	4	4	4
Overtime hours including hourly overtime rate **	\$38.78	\$42.00	\$45.00	\$47.25
Holiday Costs**	\$38.78	\$42.00	\$45.00	\$47.25
<p>*Overtime Rate will only be charged if a specific officer is requested to stay over 8 hours, if a party adds hours during the event, and will not be charged due to vendor scheduling on pre-planned notice of events over 8 hours.</p> <p>**Holiday Pricing: Martin Luther King Jr. Day, Memorial Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day, New Year's Eve (Dec 31st), and New Year's Day.</p>				

A minimum of two (2) security guards will be provided per event, and will be subject to increased number of guards dependent on scope and scale of event to appropriately meet the event needs.

In the event that this Agreement is renewed pursuant to Section 3. 1. 2, the rates set forth above may be adjusted each year at the time of renewal described in Exhibit" B" in accordance with the annual average Consumer Price Index of the prior calendar year, All Urban Consumers, Los Angeles- Riverside-Orange Counties up to a maximum percentage of five percent( 5%).

**AMENDED EXHIBIT "C"  
TO FIRST AMENDMENT TO  
SECURITY SERVICES**

Item Line	2022	2023	2024	2025	2026	2027
Hourly rate for non-alcohol events per security guard	\$28.00	\$30.00	\$31.50	\$33.00	\$35.00	\$36.50
Hourly rate for alcohol events per security guard	\$28.00	\$30.00	\$31.50	\$33.00	\$35.00	\$36.50
Minimum number of hours of services (if any)	4	4	4	4	4	4
Overtime hours including hourly overtime rate **	\$42.00	\$45.00	\$47.25	\$49.50	\$52.50	\$54.75
Holiday Costs**	\$42.00	\$45.00	\$47.25	\$49.50	\$52.50	\$54.75
<p>*Overtime Rate will only be charged if a specific officer is requested to stay over 8 hours, if a party adds hours during the event, and will not be charged due to vendor scheduling on pre-planned notice of events over 8 hours.  **Holiday Pricing: Martin Luther King Jr. Day, Memorial Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day, New Year's Eve (Dec 31st), and New Year's Day.</p>						

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# City of Aliso Viejo

## **AGENDA ITEM**



DATE: September 7, 2022  
TO: Mayor and City Council  
FROM: Ann Eifert, Director of Financial Services/City Treasurer  
SUBJECT: PROPERTY ACQUISITION – 38 COLONIAL WAY

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### **Recommended Actions:**

1. Approve the purchase and sale agreement for 38 Colonial Way, Aliso Viejo, CA 92656 in the amount of \$227,000 and direct the City Manager to take all necessary steps to close escrow and complete the purchase of the property;
2. Find that the purchase of the property is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Sections 15301 (Existing Facilities);
3. Authorize the appropriation of Development Impact funds in the amount \$95,076 to the Fiscal Year 2022-23 Budget for the purchase; and
4. Find that the purchase of the property is in conformance with the City's General Plan Confirms with the General Plan.

### **Fiscal Impact:**

The purchase cost of the property located at 38 Colonial Way is \$227,000, plus approximately \$5,000 for closing costs. Repairs to the property are estimated to cost between \$35,000 and \$50,000, depending on the inspection report. Funds in the amount of \$186,924 will be paid through funding from the Community Development Block Grant (CDBG). The remaining cost of \$95,076 will be funded with Development Impact funds. Funds will need to be appropriated in the Fiscal Year 2022-23 budget.

Ongoing annual costs including maintenance of \$5,000 and homeowners' association dues of \$4,220 will be funded by the General Fund.

### **Background:**

On May 4, 2022, City Council approved the FY 2022-23 Annual Action Plan for the Community Block Grant (CDBG). As part of the plan, an estimated \$175,626 was allocated towards the acquisition of a low-income housing unit to provide supportive

housing for homeless families with children. Subsequently, CDBG finalized their FY 2022-23 allocation, which provided an additional \$11,298 for acquisition, for a total of \$186,924.

On June 15, 2022, City Council authorized staff to make an offer to purchase the property located at 38 Colonial Way, Aliso Viejo, CA in the amount of \$227,000 to be used for affordable housing in the City.

**Discussion:**

The property owner has accepted the City's offer and the City entered into a 45-day due diligence period, which included obtaining an appraisal and inspection for the property. The inspection of the property identified approximately \$35,000 to \$50,000 in necessary repairs to the property. Closing costs are estimated at \$5,000. Funds from CDBG and Development Impact Funds will be used to fund the purchase.

Ongoing maintenance is estimated to be \$5,000 per year and annual association dues on the property are \$4,220.

**General Plan Conformance:**

In accordance with Section 65402 of the California Government Code, property acquisitions by the City must be determined to conform to the adopted General Plan. The acquisition is found to conform with the following goals and policies of the City's General Plan:

- Goal H-1 Encourage a diversity of housing types and provide affordability levels within Aliso Viejo to meet the needs of community residents.
- Policy H-1.1 Identify sites appropriate for the development of a variety of housing types and price ranges to meet the needs of all socioeconomic segments of the community through the disbursement of affordable units in projects.
- Goal H-2 Create safe and aesthetically pleasing neighborhoods, and provide adequate housing to meet the needs of all household types and income groups.
- Goal H-3 Ensure that all persons and household types have equal access to housing.

The goals and policies of the Housing Element of the General Plan as identified above address the need to provide opportunities for a variety of housing, maintain housing units that meet the needs of all income groups, and assist special needs households. The City is proposing to purchase the property and then lease it to the local non-profit organization, Family Assistance Ministries (FAM), which is experienced in operating residential units as transitional and supportive housing. The purchase of this property will allow the City

to provide and maintain affordable housing which is consistent with the overall intent of the Housing Element of the General Plan.

If the Council approves the purchase and sale of the property, there will be a separate item on a future City Council agenda that proposes a lease agreement between the City and FAM for the lease and operation of the property.

**Environmental:**

The purchase of the property is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Sections 15301 (Existing Facilities).

**Attachment:**

1. Purchase Agreement

**PURCHASE AND SALE AGREEMENT  
AND JOINT ESCROW INSTRUCTIONS**

This Purchase and Sale Agreement and Joint Escrow Instructions (this "**Agreement**") is made as of July <sup>20</sup>\_\_\_\_\_, 2022 (the "**Effective Date**"), between William Zapata ("**Seller**"), and the City of Aliso Viejo, a California municipal corporation ("**Buyer**").

ARTICLE 1. AGREEMENT OF SALE.

Subject to and on the terms and conditions of this Agreement, Seller shall sell to Buyer and Buyer shall purchase from Seller all of the following (collectively, the "**Property**"):

1.1 Land. The real property which is more particularly described in Exhibit A, together with (a) all privileges, rights, easements and appurtenances belonging to the real property, including without limitation all minerals, oil, gas and other hydrocarbon substances on and under the real property, (b) all development rights, air rights, water, water rights and water stock relating to the real property, and (c) all right, title and interest of Seller in and to any streets, alleys, passages, other easements and other rights-of-way or appurtenances included in, adjacent to or used in connection with such real property, before or after the vacation thereof (collectively, the "**Land**");

1.2 Improvements. Any and all structures, systems, facilities, fixtures, fences and parking areas located on the Land and any and all machinery, equipment, apparatus and appliances used in connection with the operation or occupancy of the Land (such as heating and air conditioning systems and facilities used to provide utility services, ventilation, garbage disposal or other amenities on the Land) and other improvements located upon the Land (collectively, the "**Improvements**").

The Land and the Improvements are sometimes collectively referred to in this Agreement as the "**Property**";

1.3 Personal Property. All of Seller's right, title and interest in and to any personal property located within or used in connection with the Property, including, without limitation, that described in the Personal Property Inventory attached hereto as Exhibit B (collectively, the "**Personal Property**").

1.4 Other Assets. To the extent owned by Seller, all tangible and intangible assets of any nature relating to the Property or the Improvements and/or Personal Property, including without limitation (a) all warranties upon the Improvements and/or Personal Property, to the full extent such warranties are assignable, (b) copies of all plans, specifications, engineering drawings and prints relating to the construction of the Improvements, (c) all license agreements, copyrights, logos, designs, trademarks, trade names, service marks and all goodwill associated with the Property, (d) all other intellectual or intangible property used by Seller in connection with the Property; and (e) all claims and causes of action arising out of or in connection with the Property.

1.5 Excluded Assets. The following assets of Seller (collectively, the "Excluded Assets") are not part of the sale and purchase contemplated hereunder, are excluded from the

Property and shall remain the property of Seller after the Closing: the washing machine, drying machine and refrigerator.

1.6 No Relocation Assistance. Seller is not entitled to any relocation assistance from Buyer. Seller agrees to indemnify Buyer for any claims of relocation assistance. This Section shall survive termination of the Agreement.

## ARTICLE 2. PURCHASE PRICE.

2.1 Amount. The purchase price (the "**Purchase Price**") for the Property shall be Two Hundred and Twenty Seven Thousand Dollars and No Cents (\$227,000.00).

2.2 Deposit/Purchase Price. Within three (3) business days after the Effective Date, Buyer shall deposit \$5,000 with the Escrow Holder (as defined below) into an interest bearing account on behalf of Buyer (the "**Deposit**"). The deposit shall be refundable to Buyer unless Buyer waives all contingencies by the expiration of the Due Diligence Period or the Extended Due Diligence Period, if applicable. If the Closing of the transaction contemplated by this transaction occurs, the Deposit shall be disbursed to Seller and applied to the Purchase Price at Closing. The failure of Buyer to make the Deposit within the time frame specified in this Section shall be material breach of this Agreement and Seller may terminate the Agreement. Buyer shall pay the Purchase Price to Seller through escrow at the Closing described in Section 9.1. On or before the Closing Date (as defined below), Buyer shall deposit into escrow the Purchase Price, subject to adjustment by reason of any applicable prorations and the allocation of closing costs described below. The Deposit and Purchase Price shall be made by wire transfer of federal funds, cashiers check or in another immediately available form. Notwithstanding anything herein to the contrary, One Hundred Dollars (\$100.00) of the Initial Deposit (the "**Independent Consideration**") shall not be refundable to Buyer, but shall represent consideration for this Agreement and shall be paid to Seller. The Independent Consideration shall be paid to Seller within three (3) days of the Effective Date. The Independent Consideration shall serve as consideration for the granting of the time periods herein contained for Buyer to exercise Buyer's right to satisfy and approve all of Buyer's conditions herein contained. If the Deposit is refunded to Buyer for any reason pursuant to this Agreement, the Independent Consideration shall be subtracted from the Deposit pursuant to this Section.

## ARTICLE 3. DUE DILIGENCE.

### 3.1 Due Diligence Period; Inspection and Access.

3.1.1 Due Diligence Period. The "**Due Diligence Period**" means the period beginning on the Effective Date and ending at 11:59 p.m. on the forty-fifth (45<sup>th</sup>) day after the Effective Date. Notwithstanding the foregoing, Buyer shall have the option to extend the Due Diligence Period by seven (7) days ("**Extended Due Diligence Period**"), upon written notice to Seller at any time prior to the expiration of the Due Diligence Period.

3.1.2 Access to Information and the Property. Buyer shall conduct its investigation of the Property during the Due Diligence Period or Extended Due Diligence Period, if applicable, at no cost to Seller. This investigation ("**Due Diligence Investigation**") may include, at Buyer's option: a physical inspection of the Land and all Improvements thereon, including soil,

geological and other tests, engineering evaluations of the mechanical, electrical, HVAC and other systems in the Improvements and review of the Plans; review of all governmental matters affecting the Property, including zoning, environmental and building permit and occupancy matters; review and verification of all financial and other information previously provided by Seller relating to the operation of the Property; review of the condition of title to the Property, including the building, structural system and roof inspection; and review of such other matters pertaining to an investment in the Property as Buyer deems advisable. In addition to the Preliminary Documents delivered to Buyer pursuant to Section 3.2, Buyer and its representatives shall have the right of access during reasonable business hours to all files, books and records maintained by Seller or its agents (including, without limitation, all of the Additional Documents to be made available to Buyer at the Property pursuant to Section 3.3), wherever located, relating to the Property, including the right to copy the same. Buyer and its representatives shall also have the right of access to the Property during reasonable business hours to conduct its investigation of the physical condition of the Property. Seller agrees that the rights granted to Buyer herein and the results of its Due Diligence Investigation shall not relieve Seller of any obligations Seller may have under any other provisions of this Agreement, or under other documents entered into concurrently herewith, or implied by law, nor shall they constitute a waiver by Buyer of the right to enforce any of the same. Seller shall cooperate with Buyer in its due diligence activities and provide access to the Property, its records, or provide information so long as it is within Seller's control.

3.2 Delivery of Preliminary Documents. Within five (5) business days after the Effective Date, Seller shall deliver to Buyer, at Seller's expense, all of the documents described in the remaining subsections of this Section 3.2 (collectively, the "**Preliminary Documents**") in Seller's possession or control.

3.2.1 Title Report and Survey. A preliminary title report or commitment for title insurance (the "**Preliminary Title Report**"), if not already provided by the Buyer, dated no earlier than ten (10) days before the Effective Date, covering the Property and issued by a title insurance company or companies acceptable to Buyer (the "**Title Company**"), together with a legible copy of each document, map and survey referred to in the Preliminary Title Report. Buyer, at Buyer's sole cost, may obtain an as-built survey of the Property (the "**Survey**") prepared by a certified land surveyor in accordance with the most recent American Land Title Association standards, certified by such surveyor to Buyer and the Title Company in a form acceptable to the Title Company for the purpose of deleting any survey exception from the Title Policy described in Section 4.1.3.

3.2.2 Plans. Copies of all as-built plans and specifications for the Improvements, including without limitation the plans and specifications for and a complete description of all existing renovations and improvements to the Property and all rentable space therein, and as-built drawings for all underground utilities (collectively, the "**Plans**"), together with a certificate from an architect approved by Buyer certifying to Buyer that the Improvements were constructed and completed in accordance with the Plans;

3.2.3 Soils Report. Any soils report on the Land prepared at Seller's request or in the possession or control of Seller, including (if available) a report on compliance with any soils work recommended to be done prior to construction of the Improvements;

3.2.4 Engineers' Reports. Any structural, mechanical, environmental or geological reports concerning the Property which have been prepared at Seller's request or which are within Seller's possession or control;

3.2.5 Operating Statements; Tax Bills. Copies of operating statements for the Property certified by Seller including an itemization of income and expenses and copies of all real property tax bills for the Property for such periods;

3.2.6 Licenses, Etc. Copies of any licenses, permits or certificates required by governmental authorities in connection with construction or occupancy of the Improvements, including, without limitation, building permits, certificates of completion, certificates of occupancy and environmental permits and licenses;

3.2.7 Inspection Reports. Copies of all written reports received by Seller within three (3) years prior to the Effective Date from Seller's insurance companies, any governmental agency or any other person or entity, which requires or demands correction of any condition, or requests modification in or termination of any uses of the Property, accompanied by Seller's summary of (a) any oral reports from such insurance companies or governmental agencies, and (b) the present status of any matter noted in any oral or written report.

3.3 Additional Documents and Information. From the Effective Date through the Closing Date, Seller shall make available to Buyer at the Property in accordance with Section 3.1, the documents and information described in this Section 3.3 (collectively, the "**Additional Documents**");

3.3.1 Agreements. Copies of written, and written descriptions of oral, easements, covenants, restrictions, agreements, contracts and other documents, whether existing or, to the knowledge of Seller, proposed as of the Effective Date, including without limitation any agreements relating to the insurance, service, operation, repair, supply, advertising, promotion, sale, leasing or management of the Property, which (a) affect the Property, (b) are not disclosed by the Preliminary Title Report, and (c) have not been delivered to Buyer pursuant to Section 3.2. If no such documents exist, Seller shall furnish its certification to that effect;

3.3.2 Warranties/Roof Inspections/HVAC Inspections. Copies of any and all guarantees or warranties and other rights given to Seller in connection with the construction, maintenance, repair or remodeling of the Improvements, periodic inspections, or the purchase of any of the Personal Property. If no such documents exist, Seller shall furnish its certification to that effect;

3.3.3 Insurance Policies. Copies of certificates evidencing the insurance carried by Seller of the Property;

3.3.4 Other Documents. All data, correspondence, documents, agreements, waivers, notices, applications and other records with respect to the Property relating to transactions with taxing authorities, governmental agencies, utilities, vendors and others with whom Buyer may be dealing from and after the Closing Date; and

3.4 Approval/Disapproval of Due Diligence Investigations. Buyer shall approve or disapprove the results of Buyer's Due Diligence Investigation, in the exercise of Buyer's sole discretion, by written notice delivered to Seller no later than the expiration of the Due Diligence Period or the Extended Due Diligence Period, if applicable. Buyer's disapproval shall terminate this Agreement unless, at the time Buyer gives notice of its disapproval, Buyer also notifies Seller of Buyer's desire to enter into negotiations with Seller for the purpose of reaching an accommodation concerning the disapproval ("**Disapproval Accommodation Notice**"). If Buyer so notifies Seller and the parties have not reached a written agreement satisfactory to both of them regarding the disapproval within ten (10) days after the date of the Disapproval Accommodation Notice, Buyer, at its option, may either (a) elect to terminate this Agreement by so notifying Seller and recover the Deposit, or (b) elect to proceed with the transactions contemplated by this Agreement notwithstanding its earlier disapproval. If Buyer fails to deliver to Seller notice of its approval or disapproval of the results of its Due Diligence Investigation, Buyer shall be deemed to have disapproved such results. If Buyer terminates the Agreement in any manner contemplated in this Section 3.4, then within five (5) business days of such termination, (i) Buyer shall return to Seller all of the Preliminary Documents and Additional Documents previously delivered by Seller to Buyer; and (ii) Seller / Escrow shall return the Deposit to Buyer.

3.4.1 No Credits or Repairs. Seller will not provide Buyer with any credit, nor make any repairs to the Property, unless specifically required by the Inspection which warrants Seller to be responsible. Specifically, Seller will be responsible for credits/repairs to damage to the walls/structure or foundation of the Property. Should Seller refuse to provide Buyer with any credit or repair, Buyer will have the ability to terminate their purchase of the Property.

### 3.5 Title Review.

3.5.1 Monetary Liens. At its expense, Seller shall remove all liens on the Property at or prior to the Closing (collectively, "**Monetary Liens**"): (i) all delinquent taxes, bonds and assessments and interest and penalties thereon (it being agreed that Seller shall not be required to remove any non-delinquent taxes and assessments imposed by any governmental agency that are paid with the property taxes for the Property); and (ii) all other monetary liens, including without limitation all those shown on the Preliminary Title Report (including judgment and mechanics' liens, whether or not liquidated, and mortgages and deeds of trust, with Seller being fully responsible for any fees or penalties incurred in connection therewith).

3.5.2 Approval/Disapproval of Title Review. Buyer shall approve or disapprove of the Preliminary Title Report, the Survey and any exceptions to title shown thereon (other than the Monetary Liens) in the exercise of Buyer's sole discretion, by the expiration of the Due Diligence Period or Extended Due Diligence Period, if applicable. If Buyer disapproves, Buyer may either (a) terminate this Agreement by giving Seller written notice of termination or (b) give Seller a written notice ("**Disapproval Notice**") identifying the disapproved title matters ("**Disapproved Title Matters**"). With respect to any Disapproved Title Matters, other than the Monetary Liens, Seller shall notify Buyer in writing within five (5) days after Seller's receipt of the Disapproval Notice whether Seller will cause the Disapproved Title Matters to be removed or cured at or prior to Closing. If Seller elects not to remove or cure all Disapproved Title Matters, Buyer may, at its option: (i) subject to satisfaction of the other conditions to Closing, close the

purchase of the Property and take title subject to the Disapproved Title Matters which Seller elects not to remove or cure; or (ii) terminate this Agreement in accordance with Section 9.6.1.

3.5.3 Buyer's Options. If any Disapproved Title Matters (including the Monetary Liens) have not been removed at least five (5) days prior to Closing or provision for their removal at the Closing has not been made to Buyer's satisfaction, Buyer may, at its option: (i) close the purchase of the Property and take title subject to the Disapproved Title Matters which have not been removed; (ii) close the purchase of the Property and cure or remove the Disapproved Title Matters which have not been removed. Buyer may credit the costs of such cure or removal against the Purchase Price by reducing the amount of cash payable by Buyer at the Closing, but only to the extent such costs are expended to remove (A) Monetary Liens referred to in Section 3.5.1 or (B) Disapproved Title Matters which Seller agreed to remove; or (iii) terminate this Agreement in accordance with Section 9.6.1.

3.5.4 Failure to Disapprove. If Buyer fails to notify Seller of its approval or disapproval of the Preliminary Title Report, the Survey or the exceptions shown thereon by the end of the Due Diligence Period or Extended Due Diligence Period, if applicable, then Buyer shall be deemed to have disapproved the same.

#### ARTICLE 4. CONDITIONS PRECEDENT.

4.1 Buyer's Conditions. Buyer's obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 4.1 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or in part by Buyer by written notice to Seller.

4.1.1 Due Diligence. Buyer having approved of the results of its Due Diligence Investigation pursuant to Section 3.4;

4.1.2 Title Review. Buyer having approved of the results of its review of title pursuant to Section 3.5.

4.1.3 Title Policy. Seller having caused the Title Company to deliver to Buyer (a) a CLTA Owner's policy of title insurance, provided that Buyer may require an ALTA Owner's Policy if Buyer pays the incremental premium for ALTA coverage ("**Title Policy**") (or at Buyer's election a binder therefor) for the Property, or (b) the Title Company's irrevocable commitment to issue such policy of title insurance, (including such coinsurance, reinsurance and endorsements as Buyer shall require), with liability equal to the Purchase Price showing fee title to the Property vested in Buyer and subject only to: (i) the matters and exceptions which were approved by Buyer pursuant to Section 3.5; and (ii) the standard printed exceptions in the form of title policy called for (collectively, "**Conditions of Title**").

4.1.4 Performance of Covenants. Seller performing and complying in all material respects with all of the terms of this Agreement to be performed and complied with by Seller prior to or at the Closing.

4.1.5 Representations and Warranties. The representations and warranties of Seller set forth in Article 5 being true and accurate on the Closing Date, as if made on such date.

4.1.6 Non-Foreign Certification. Seller having executed and delivered to Buyer on or prior to the Closing Date a certification (the "**Non-Foreign Certification**"), substantially in the form of Exhibit C.

4.1.7 California Certification. Seller having furnished the residency certification required pursuant to Sections 18805 and 26131 of the California Revenue and Taxation Code or having authorized Escrow Holder in writing to withhold from the Purchase Price the amounts required to be withheld by such Sections.

4.2 Seller's Conditions. Seller's obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 4.2 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or part by Seller by written notice to Buyer.

4.2.1 Covenants. Buyer performing and complying in all material respects with all of the terms of this Agreement to be performed and complied with by Buyer prior to or at the Closing.

4.2.2 Representations and Warranties. The representations of Buyer set forth in Article 6 being true and accurate on the Closing Date, as if made on such date.

## ARTICLE 5. SELLER'S REPRESENTATIONS AND WARRANTIES.

Subject to the Disclaimer of Warranties contained in Section 5.21, and subject to Buyer's opportunity to conduct its Due Diligence Investigation of the Property, Seller hereby makes the following representations and warranties to Buyer with the understanding that each such representation and warranty is material and is being relied upon by Buyer:

5.1 Defects. To the best of Seller's knowledge, the Improvements and the Personal Property are in good condition and repair and are free of any latent or patent design, construction, physical or mechanical defects and there is no actual or threatened settlement, earth movement, termite infestation or damage affecting the Property.

5.2 Compliance. To the best of Seller's knowledge, the Property, and the operation thereof, are in compliance with all applicable laws, ordinances, rules, regulations, judgments, orders, covenants, conditions, restrictions, whether federal, state, local, foreign or private. Seller has not received any request either formal or informal, oral or written, that Seller modify or terminate any use of the Property. The zoning of the Property permits the current Improvements and use of the Property, and, there is no pending or to Seller's knowledge, contemplated rezoning. The Property complies with all applicable subdivision laws and all local ordinances enacted thereunder and no subdivision or parcel map not already obtained is required to transfer the Property to Buyer.

5.3 Documents. All of the Preliminary Documents and the Additional Documents which have been delivered or made available to Buyer pursuant to Article 3, and all other documents delivered to Buyer by or on behalf of Seller are, to the best of Seller's knowledge, true, correct and complete copies of what they purport to be.

5.4 Intentionally Omitted.

5.5 Taxes and Condemnation. Except as disclosed on Schedule 5.5, there are no presently pending or, to Seller's knowledge, contemplated special taxes or assessments which will affect the Property. There are no presently pending or, to Seller's knowledge, contemplated proceedings to condemn or demolish the Property or any part of it.

5.6 Utilities. To the best of Seller's knowledge, all water, sewer, gas, electric, telephone and drainage facilities, and all other utilities required by law or by the normal operation of the Property, are (a) installed to the property lines of the Property, (b) connected to the Property, (c) adequate to service the Property in its present use and to permit full compliance with all requirements of law and normal usage by the occupants of the Property and (d) in good working order and repair. All such utilities and storm and sanitary sewers required for the operation of the Property enter the Land through adjoining public streets or through adjoining private land in accordance with valid public or private easements that will inure to the benefit of Buyer.

5.7 Licenses. To the best of Seller's knowledge, Seller has all required licenses, permits (including, without limitation, all building permits and occupancy permits), easements and rights-of-way which are required in order to continue the present use of the Property. Seller has no knowledge of any law or regulation of any governmental authority having jurisdiction which might require the Property to be improved beyond its present state or which might restrict the use and enjoyment of the Property in the manner it is presently being used and enjoyed.

5.8 Contracts/Leases/Occupancy Rights. To the best of Seller's knowledge, there are no agreements or other obligations to which Seller is a party or by which it or the Property is bound which may affect the current use or occupancy of the Property, nor are there any current leases, occupancy or operating agreements in force. No party besides Seller has a right to occupancy, tenancy, or a license to use or enter the Property.

5.9 Litigation. To the best of Seller's knowledge, there are no actions, suits, proceedings, judgments, orders, decrees or governmental investigations pending or threatened against the Property or Seller which could affect the Property or the purchase, use or enjoyment thereof by Buyer.

5.10 Agreements with Governmental Authorities. To the best of Seller's knowledge, there are no agreements with governmental authorities, agencies, utilities or quasi-governmental entities which affect the Property except those agreements which are identified in the Preliminary Title Report and those matters which are disclosed by the Survey.

5.11 Intentionally Omitted.

5.12 Hazardous Materials.

5.12.1 Definitions. For purposes of this Agreement:

(a) "**Environmental Law(s)**" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sections 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901 et seq., the

Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq., the Clean Water Act, 33 U.S.C. Sections 1251 et seq., [The Safe Drinking Water and Toxic Enforcement Act of 1986 (Cal. H&S Code Sections 25249.5-25249.13), the Carpenter-Preseley-Tanner Hazardous Substance Account Act (Cal. H&S Code Sections 25300 et seq.), and the California Water Code Sections 1300, et seq.], as said laws have been supplemented or amended to date, the regulations promulgated pursuant to said laws and any other federal, state or local law, statute, rule, regulation or ordinance which regulates or proscribes the use, storage, disposal, presence, cleanup, transportation or Release or threatened Release into the environment of Hazardous Material.

(b) **"Hazardous Material"** means any substance which is (i) designated, defined, classified or regulated as a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under any Environmental Law, as currently in effect or as hereafter amended or enacted, (ii) a petroleum hydrocarbon, including crude oil or any fraction thereof and all petroleum products, (iii) PCBs, (iv) lead, (v) asbestos, (vi) flammable explosives, (vii) infectious materials or (viii) radioactive materials.

(c) **"Release"** means any spilling, leaking, pumping, pouring, emitting, discharging, injecting, escaping, leaching, dumping or disposing into the environment of any Hazardous Material (including the abandonment or discarding of barrels, containers, and other receptacles containing any Hazardous Material).

5.12.2 Representations. Except as otherwise disclosed:

(a) To the best of Seller's knowledge the Property and all existing uses and conditions of the Property are in compliance with all Environmental Laws, and Seller has not received any written notice of violation issued pursuant to any Environmental Law with respect to the Property or any use or condition thereof.

(b) To the best of Seller's knowledge neither Seller nor any other present or former owner of the Property has used, handled, stored, transported, released or disposed of any Hazardous Material on, under or from the Property in violation of any Environmental Law.

(c) To the best of Seller's knowledge there is no Release of any Hazardous Material existing on, beneath or from or in the surface or ground water associated with the Property.

(d) To the best of Seller's knowledge all required permits, licenses and other authorizations required by or issued pursuant to any Environmental Law for the ownership or operation of the Property by Seller have been obtained and are presently maintained in full force and effect.

(e) To the best of Seller's knowledge there exists no writ, injunction, decree, order or judgment outstanding, nor any lawsuit, claim, proceeding, citation, directive, summons or investigation pending or, to Seller's knowledge, threatened pursuant to any Environmental Law relating to (i) the ownership, occupancy or use of any portion of the Property by Seller or occupant or user of any portion of the Property or any former owner of any portion of the Property, (ii) any alleged violation of any Environmental Law by Seller or occupant or user of

any portion of the Property or any former owner of any portion of the Property or (iii) the suspected presence, Release or threatened Release of any Hazardous Material on, under, in or from any portion of the Property.

(f) To the best of Seller's knowledge, there are no above-ground or underground tanks located on the Property used or formerly used for the purpose of storing any Hazardous Material.

(g) To the best of Seller's knowledge, no asbestos abatement or remediation work has been performed on the Property.

(h) To the best of Seller's knowledge, there is no PCB-containing equipment or PCB-containing material located on or in the Property.

5.13 Title to the Property. To Seller's knowledge, there are no unrecorded or undisclosed documents or other matters which affect title to the Property. Seller has enjoyed the continuous and uninterrupted quiet possession, use and operation of the Property.

5.14 Intentionally Omitted.

5.15 Parking. Seller has received no written notice from any governmental agency that the parking spaces on the Property are in violation of law.

5.16 Zoning. Seller has received no written notice from any governmental agency that the Property is not in compliance with zoning requirements and laws.

5.17 Foreign Person. Seller is not a "foreign person" within the meaning of Section 1445(f) of the Internal Revenue Code.

5.18 Intentionally Omitted.

5.19 Inspections. Schedule 5.19 accurately describes (a) all inspections of the Property by any governmental agency or insurance company occurring within three (3) years prior to the Effective Date, (b) all matters which were noted by such governmental agency or insurance company as requiring correction, requesting or recommending modifications or termination of uses of the Property and (c) the present status of each such noted matter.

5.20 Misstatements and Omissions. Neither the representations and warranties made by Seller in this Article 5 nor elsewhere in this Agreement contain any untrue statement or any omission of a material fact.

5.21 Disclaimer of Warranties; "AS IS" Purchase. Buyer acknowledges that it will have had an opportunity to conduct its Due Diligence Investigation of the Property and will acquire the Property in its current condition based thereon. Buyer acknowledges and agrees that the Property is to be conveyed by Seller to Buyer "as is, with all faults," and substantially in its current condition. Buyer further acknowledges and agrees that, except for the representations and warranties by Seller set forth in this Section 5, the sale of the Property to Buyer is made without any warranty or representation of any kind by Seller, either express or implied or arising by

operation of law, and Seller shall have no liability with respect to the nature, value, uses, habitability, merchantability, suitability, condition, design, operation, rents, financial condition or prospects, fitness for purpose or use, or the manner, construction, condition or state of repair or lack of repair of the improvements of the Property (or any part thereof), or any other aspect, portion or component of the Property whatsoever, it being specifically understood and agreed that Buyer shall have full opportunity, during the Due Diligence Investigation, to determine for itself the condition of the Property.

Buyer's Initials:                     

#### ARTICLE 6. BUYER'S REPRESENTATIONS AND WARRANTIES.

Buyer makes the following representation and warranties to Seller with the understanding that each such representation and warranty is material and is being relied upon by Seller:

6.1 Buyer's Authority. The execution, delivery and performance of this Agreement by Buyer have been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of Buyer in order to consummate the transactions contemplated herein.

6.2 No Conflict. Neither the execution nor delivery of this Agreement by Buyer, nor performance of any of its obligations hereunder, nor consummation of the transactions contemplated hereby, shall conflict with, result in a breach of, or constitute a default under, the terms and conditions of the organizational documents pursuant to which Buyer was organized, or any agreement to which Buyer is a party or is bound, or any order or regulation of any court, regulatory body, administrative agency or governmental body having jurisdiction over Buyer.

#### ARTICLE 7. SURVIVAL OF REPRESENTATIONS AND WARRANTIES AND INDEMNIFICATION.

7.1 Survival of Warranties. Buyer and Seller agree that each representation and warranty in Articles 5 and 6, respectively, shall survive the Closing Date and shall not merge with the delivery to Buyer of the Grant Deed.

7.2 Notice of Changed Circumstances. If either party becomes aware of any fact or circumstances which would render false or misleading a representation or warranty made by such party, then it shall immediately give notice of such fact or circumstance to the other party, but such notice shall not relieve any party of any liabilities or obligations with respect to any representation or warranty.

#### 7.3 Indemnification.

7.3.1 Seller's Indemnity. Seller's obligations pursuant to this Section 7.3.1 shall survive the Closing. Seller at its sole cost and expense hereby agrees to indemnify, defend (with counsel acceptable to Buyer), protect and hold harmless Buyer, from and against any and all claims, demands, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action and compliance requirements, enforcement

and clean-up actions of any kind, and all costs and expenses incurred in connection therewith, including, without limitation, actual attorneys' fees and costs of defense and costs and expenses of all experts and consultants (collectively, the "Losses"), arising directly or indirectly, in whole or in part, out of any one or more of the following:

(a) the breach or alleged breach of any covenant of Seller contained in this Agreement or the inaccuracy or alleged inaccuracy of any representation or warranty of Seller contained in this Agreement;

(b) Seller's ownership of the Property or the operation of the Property prior to the Closing Date; or

(c) the presence on, in or under the Property of any Hazardous Material on or before the Closing Date, any Release of any Hazardous Material, on, under or from the Property prior to the Closing Date or the use, generation, manufacturing, production, handling, storage, transport, discharge or disposal of any such Hazardous Materials on or before the Closing Date, from, under or about the Property, irrespective of whether any of such activities were or will be undertaken in accordance with Environmental Law or other applicable laws, regulations, codes and ordinances. The indemnity contained in this paragraph (c) shall further apply, without limitation, to: (i) all residual contamination and contamination affecting any natural resources; (ii) all consequential damages; (iii) the costs of any required remediation or removal work on the Property, including, without limitation: (A) costs of remediation or removal incurred by the United States Government or the State or any other person; and (B) fines or penalties which arise from the provisions of any statute, state or federal; and (iv) liability for personal injury or property damage arising under any statutory or common-law tort theory, including damages assessed for the maintenance of a public or private nuisance, response costs or for the carrying on of an abnormally dangerous activity.

7.3.2 Buyer's Indemnity. Buyer's obligations pursuant to this Section 7.3.2 shall survive the Closing. Buyer at its sole cost and expense hereby agrees to indemnify, defend (with counsel acceptable to Buyer), protect and hold harmless Seller, and their respective directors, officers and agents from and against any and all Losses, arising directly or indirectly, in whole or in part, out of any one or more of the following:

(a) the breach or alleged breach of any covenant of Buyer contained in this Agreement or the inaccuracy or alleged inaccuracy of any representation or warranty of Buyer contained in this Agreement and

(b) Buyer's ownership of the Property or the operation of the Property after the Closing Date.

#### ARTICLE 8. SELLER'S PRECLOSING COVENANTS.

Seller shall comply with the covenants contained in this Article 8 from the Effective Date through the Closing Date unless Buyer consents otherwise in writing. Buyer may grant or withhold any such consent requested by Seller in Buyer's sole discretion.

8.1 Contracts and Documents. Seller shall not, without Buyer's approval, not to be unreasonably withheld or delayed, (a) amend or waive any right under any Preliminary Document or Additional Document, or (b) enter into any material agreement of any type affecting the Property that would survive the Closing Date.

8.2 Insurance. Seller shall maintain or cause to be maintained in full force and effect its present insurance policies for the Property.

8.3 Compliance with Obligations. Seller shall fully and timely comply with all obligations to be performed by it under the other Preliminary Documents, the Conditions of Title and all permits, licenses, approvals and laws, regulations and orders applicable to the Property.

8.4 No Transfers. Seller shall not sell, encumber or otherwise transfer any interest in all or any portion of the Property, or agree to do so.

8.5 Maintenance. At its sole cost and expense, Seller shall operate and maintain the Property such that on the Closing Date the Property shall be in at least as good a condition and repair as on the Effective Date, reasonable wear and tear excepted. Without limiting the generality of the foregoing, Seller shall, at a minimum, spend such amounts for repair and maintenance as are consistent with its prior practice. Seller shall promptly advise Buyer of any significant repair or improvement required to keep the Property in such condition. Seller shall not make any material alterations to the Property, or remove any of the Personal Property therefrom, without Buyer's prior consent, unless such Personal Property so removed is simultaneously replaced with new Personal Property of similar quality and utility.

8.6 Best Efforts. Seller shall use its best efforts to cause the conditions set forth in Section 4.1 to be satisfied by the Closing Date, and Seller shall not take or permit any action that would result in any of the representations and warranties set forth in Article 5 becoming false or incorrect.

## ARTICLE 9. CLOSING.

9.1 Time. Provided all conditions set forth in Article 4 have been either satisfied or waived, the parties shall close this transaction (the "**Closing**"), fifteen (15) days following the Due Diligence Period (the "**Closing Date**"), as such date may be extended by the provisions of Article 10.

9.2 Escrow. This Article 9, together with such additional instructions as Icon Escrow Company, Attention: Mireya Roudenko, 8383 Wilshire Blvd Ste 260, Beverly Hills, CA 90211 ("**Escrow Holder**"), shall reasonably request and the parties shall agree to, shall constitute the escrow instructions to Escrow Holder. If there is any inconsistency between this Agreement and the Escrow Holder's additional escrow instructions, this Agreement shall control unless the intent to amend this Agreement is clearly stated in said additional instructions. Buyer and Seller shall cause Escrow Holder to execute and deliver a counterpart of this Agreement to each of them. If the Title Company does not serve as the Escrow Holder, the Title Company shall provide a letter to Buyer, in form and content acceptable to Buyer, pursuant to which the Title Company accepts responsibility and liability for the acts and omissions of Escrow Holder in discharging Escrow Holder's obligations hereunder, including, without limitation, any acts or omissions of Escrow

Holder relating to the Title Company's commitment to issue the Title Policy, the receipt, recordation or delivery of any documents placed into escrow, and the receipt and disbursement of any funds placed into escrow.

9.3 Seller's Deposit of Documents and Funds Into Escrow. Seller shall deposit into escrow on or before Closing the following documents:

9.3.1 A duly executed and acknowledged grant deed, in the form acceptable to Buyer, conveying the Property to Buyer ("**Grant Deed**") in the form attached as Exhibit D;

9.3.2 A duly executed bill of sale, in the form of Exhibit E, conveying the Personal Property to Buyer free and clear of liens, encumbrances and restrictions ("**Bill of Sale**");

9.3.3 A duly executed assignment, in the form of Exhibit F, assigning to Buyer all of Seller's interest (a) in the Plans, (b) in all warranties of which Seller is the beneficiary with respect to the Property, (c) and in all intangible assets of the Property, which Buyer has elected to assume (the "**General Assignment**");

9.3.4 A certificate executed by Seller stating that all representations and warranties made by Seller pursuant to this Agreement are true and correct as of the Closing Date ("**Seller's Certificate**");

9.3.5 All costs of Closing, including, but not limited to, the CLTA increment of the premium for the Title Policy, recording fees, transfer taxes and fees, one-half of the escrow fees, sales tax and any other costs of Closing customarily paid by sellers of real property, plus or minus proration as provided in Section 9.8; provided that, subject to Section 9.6, Buyer and Seller shall bear their own attorneys' fees and costs in connection with the negotiation and preparation of this Agreement and the transactions completed by this Agreement;

9.3.6 Seller's Non-foreign Certification;

9.3.7 All records and files relating to the management or operation of the Property, including, without limitation, property tax bills, insurance, and property taxes; and

9.3.8 Such additional documents, including written escrow instructions consistent with this Agreement, as may be necessary or desirable for conveyance of the Property in accordance with this Agreement.

9.4 Deliveries Outside of Escrow. Notwithstanding Section 9.3, Seller and Buyer may elect to deliver the documents described in Section 9.3 outside of escrow (other than documents which are to be recorded) by giving Escrow Holder a joint written notice of such election, specifying the documents which will be so delivered outside of escrow. Upon receipt of such notice, Escrow Holder shall have no further obligation concerning such specified documents.

9.5 Buyer's Deposit of Documents and Funds. Buyer shall deposit into escrow:

9.5.1 The Purchase Price in accordance with the provisions of Article 2, plus or minus prorations as provided in Section 9.8, by cashier's or certified check or electronic transfer of federal funds to Escrow Holder, on or before the Closing Date; and

9.5.2 Such additional documents, including written escrow instructions consistent with this Agreement, as may be necessary or desirable for conveyance of the Property in accordance with this Agreement.

## 9.6 Default, Termination and Remedies.

9.6.1 Buyer's Termination. This Agreement shall automatically terminate without further notice or action by Buyer upon the occurrence of any of the following events, provided that Buyer is not then in material breach of this Agreement: (a) any condition to Closing contained in Section 4.1 has not been satisfied or waived by Buyer by the Closing Date; or (b) Buyer having exercised its right to terminate this Agreement pursuant to Section 3.4 (disapproval of Due Diligence Investigation), Section 3.5 (disapproval of title) or Article 10 (damage or condemnation). In such event, the parties shall have no further obligation to each other except for those obligations that specifically survive the termination of this Agreement. If this Agreement terminates as a result of Seller's material breach of this Agreement, Buyer shall have all remedies it may have hereunder or at law as a result of such occurrence, including the remedy of specific performance.

9.6.2 Seller's Termination. Provided that Seller is not then in material breach of this Agreement, this Agreement shall automatically terminate without further notice or action by Seller if any condition to Closing contained in Section 4.2 has not been satisfied or waived by Seller by the Closing Date.

9.6.3 Release from Escrow. Upon termination of this Agreement pursuant to Section 9.6.1 or 9.6.2, Escrow Holder shall promptly return to Buyer and Seller, respectively, all documents and monies deposited by them into escrow without prejudice to their rights and remedies hereunder.

### 9.6.4 Remedies.

(a) Buyer's Remedies. If Seller breaches this Agreement, Buyer shall be entitled to pursue all remedies permitted herein and by law, including the remedy of specific performance. No termination of the escrow by Buyer following a breach by Seller shall be deemed to waive such breach or any remedy otherwise available to Buyer.

(b) Seller's Remedies/Liquidated Damages. IF BEFORE THE CLOSE OF ESCROW BUYER FAILS TO COMPLY WITH OR PERFORM BUYER'S OBLIGATIONS UNDER THIS AGREEMENT AND (EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH 9.6) DOES NOT CURE SUCH FAILURE WITHIN TEN (10) BUSINESS DAYS AFTER SELLER GIVES BUYER WRITTEN NOTICE OF SUCH FAILURE, THEN SELLER MAY THEREAFTER: (I) TERMINATE THIS AGREEMENT; (II) RECEIVE AND RETAIN THE DEPOSIT AS LIQUIDATED DAMAGES IF SUCH DEFAULT OCCURS PRIOR TO BUYER'S APPROVAL OF THE TITLE REVIEW; (III) RECEIVE AND RETAIN THE DEPOSIT AS LIQUIDATED DAMAGES IF SUCH DEFAULT OCCURS AFTER BUYER'S

APPROVAL PERIOD; AND (IV) EXERCISE THE OTHER RIGHTS AND REMEDIES RESERVED BY SELLER AS PROVIDED IN THIS PARAGRAPH. IN THE EVENT SELLER TERMINATES THIS AGREEMENT BY REASON OF BUYER'S DEFAULT, BUYER AND SELLER SHALL BE RELIEVED OF ANY FURTHER OBLIGATION TO EACH OTHER WITH RESPECT TO THIS AGREEMENT AND THE PROPERTY. IT IS EXPRESSLY UNDERSTOOD AND AGREED BY BUYER AND SELLER: THAT SELLER WILL INCUR SUBSTANTIAL DAMAGES AS A RESULT OF ANY FAILURE BY BUYER TO COMPLY WITH OR PERFORM BUYER'S OBLIGATIONS UNDER THIS AGREEMENT IN THE FORM OF, AMONG OTHER THINGS, ADDITIONAL INTEREST COSTS, MARKETING COSTS, OPPORTUNITY COSTS AND OTHER RELATED EXPENDITURES; THAT IT IS EXTREMELY DIFFICULT AND IMPRACTICAL TO CALCULATE AND ASCERTAIN AS OF THE EFFECTIVE DATE OF THIS AGREEMENT THE ACTUAL DAMAGES WHICH WOULD BE SUFFERED IN SUCH EVENT BY SELLER; AND THAT THE DEPOSIT IS A REASONABLE ESTIMATE OF THE EXTENT TO WHICH SELLER MAY BE DAMAGED BY BUYER'S DEFAULT IN LIGHT OF THE DIFFICULTY THE PARTIES WOULD HAVE IN DETERMINING SELLER'S ACTUAL DAMAGES AS A RESULT OF SUCH DEFAULT BY BUYER.

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SELLER'S INITIALS

  
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BUYER'S INITIALS

(c) Waiver of Specific Performance. SELLER HEREBY WAIVES THE RIGHT TO MAINTAIN AN ACTION FOR SPECIFIC PERFORMANCE OF BUYER'S OBLIGATION TO PURCHASE THE PROPERTY AND SELLER AGREES THAT SELLER CAN BE ADEQUATELY COMPENSATED IN MONEY DAMAGES IF BUYER FAILS TO PURCHASE THE PROPERTY IN BREACH OF THIS AGREEMENT. SELLER ACKNOWLEDGES THAT THE PROVISIONS OF THIS PARAGRAPH ARE A MATERIAL PART OF THE CONSIDERATION BEING GIVEN TO BUYER FOR ENTERING INTO THIS AGREEMENT AND THAT BUYER WOULD BE UNWILLING TO ENTER INTO THIS AGREEMENT IN THE ABSENCE OF THE PROVISIONS OF THIS PARAGRAPH.

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SELLER'S INITIALS

  
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BUYER'S INITIALS

9.7 Closing. When Escrow Holder has received all documents and funds identified in Sections 9.3 and 9.5, has received notification from Buyer and Seller that all conditions to Closing to be satisfied outside of escrow have been satisfied or waived and Title Company is irrevocably committed to issue the Title Policy, then, and only then, Escrow Holder shall:

9.7.1 Record the Grant Deed;

9.7.2 Cause the Title Company to issue the Title Policy to Buyer;

9.7.3 To the extent not otherwise delivered to Buyer outside of escrow, deliver to Buyer: (a) a conformed copy (showing all recording information thereon) of the Grant Deed; (b) fully executed original counterparts of the Bill of Sale, the General Assignment; and (c) the Seller's Certificate, the Non-foreign Certification;

9.7.4 Deliver the Purchase Price (as adjusted pursuant to Section 9.8) to Seller.

Escrow Holder shall prepare and sign closing statements showing all receipts and disbursements and deliver copies to Buyer and Seller and, if applicable, shall file with the Internal Revenue Service (with copies to Buyer and Seller) the reporting statement required under Section 6045(e) of the Internal Revenue Code.

9.8 Prorations. Subject to the other provisions of this Section 9.8, all receipts and disbursements of the Property will be prorated as of 11:59 p.m. on the day immediately preceding the Closing Date. Not less than five business days prior to the Closing, Seller shall submit to Buyer for its approval a tentative prorations schedule showing the categories and amounts of all prorations proposed. The parties shall agree on a final prorations schedule prior to the Closing and shall deliver the same to Escrow Holder. If following the Closing either party discovers an error in the prorations statement, it shall notify the other party and the parties shall promptly make any adjustment required.

9.8.1 Capital Expenditures and Accounts Payable. All capital and other improvements (including labor and material) which have been performed or contracted for, by or on behalf of Seller prior to the Closing Date, and all sums due for accounts payable which have been incurred with respect to the Property prior to the Closing Date shall be paid by Seller and shall be subject to the indemnification provisions of Section 7.3. Buyer shall furnish to Seller for payment any bills for such period received after the Closing Date, and Buyer shall have no further obligation with respect thereto.

9.8.2 Property Taxes. All real and personal property ad valorem taxes and special assessments, if any, whether payable in installments or not, including without limitation, all supplemental taxes attributable to the period prior to the Closing Date for the calendar year in which the Closing occurs, shall be prorated to the Closing Date, based on the latest available tax rate and assessed valuation. If the amount of any installment of real property taxes is not known as of the Closing Date, then a proration shall be made by the parties based on a reasonable estimate of the real property taxes applicable to the Property and the parties shall adjust the proration when the actual amount becomes known upon the written request of either party made to the other.

9.8.3 Utility Charges. All utility charges shall be prorated as of the Closing Date and Seller shall obtain a final billing therefor. All utility security deposits, if any, shall be retained by Seller.

9.9 Possession. Seller shall deliver exclusive right of possession of the Property to Buyer on the Closing Date, subject only to the Conditions of Title.

#### ARTICLE 10. DAMAGE, DESTRUCTION AND CONDEMNATION.

This Agreement shall be governed by the Uniform Vendor and Purchaser Risk Act as set forth in Section 1662 of the California Civil Code as supplemented and modified by this Article 10. Seller shall promptly notify Buyer in writing of any material damage to the Property and of any taking or threatened taking of all or any portion of the Property. Within a reasonable period of time after receipt of such notice, Buyer shall determine whether a material part of the Property has been damaged or whether such taking or threatened taking has affected or will affect

a material part of the Property. As used herein, (a) the destruction of a "**material part**" of the Property shall be deemed to mean an insured or uninsured casualty to the Property having an estimated cost of repair which in the reasonable judgment of Buyer equals or exceeds \$200,000; and (b) a taking by eminent domain of a portion of the Property shall be deemed to affect a "**material part**" of the Property if in the reasonable judgment of Buyer the estimated value of the portion of the Property taken exceeds \$200,000. Upon making its determination, Buyer shall notify Seller in writing of the results of such determination. Buyer may elect, by written notice delivered to Seller within 30 days after giving Seller notice of such determination, to terminate this Agreement in accordance with Section 9.6.1 if a material part of the Property has been damaged or if such taking has affected or will affect a material part of the Property. If Buyer does not so terminate, (i) in the case of damage to a material part of the Property, Seller shall assign to Buyer at the Closing its right to recover under any insurance policies covering such damage and shall pay Buyer at the Closing the amount of the deductible, if any, and (ii) in the case of a threatened or actual taking of a material part of the Property, Seller shall assign to Buyer at the Closing Seller's entire right, title and interest in the proceeds thereof. If between the Effective Date and the Closing Date the Property suffers damage which is not material, Seller shall repair such damage at its expense prior to the Closing, and the Closing Date shall be extended for a reasonable period of time not to exceed 30 days to allow for completion of such repairs. The Closing Date shall be extended as necessary to permit Buyer to exercise its rights under this Article 10.

#### ARTICLE 11. GENERAL.

11.1 Notices. All notices, demands, approvals, and other communications provided for in this Agreement shall be in writing and shall be effective (a) when personally delivered to the recipient at the recipient's address set forth below; (b) five business days after deposit in a sealed envelope in the United States mail, postage prepaid, by registered or certified mail, return receipt requested, addressed to the recipient as set forth below; or (c) one business day after deposit with a recognized overnight courier or delivery service, addressed to the recipient as set forth below, whichever is earlier. If the date on which any notice to be given hereunder falls on a Saturday, Sunday or legal holiday, then such date shall automatically be extended to the next business day immediately following such Saturday, Sunday or legal holiday.

The addresses for notice are:

SELLER: William Zapata  
38 Colonial Way  
Aliso Viejo, California 92656  
Phone: 949-836-6747  
Email: [willseekup@msn.com](mailto:willseekup@msn.com)

Email: \_\_\_\_\_

BUYER: City of Aliso Viejo.  
Attn: David Doyle, City Manager  
12 Journey, Suite 100

Aliso Viejo, CA 92656  
 Phone: 949-425-2510  
 Email: ddoyle@avcity.org

With a copy to: Best Best & Krieger, LLP  
 Attn: Scott C. Smith  
 18101 Von Karman Ave., Suite 1000  
 Irvine, CA 92612  
 Phone: 949-263-2614  
 Email: Scott.Smith@bbkllaw.com

Either party may change its address by written notice to the other given in the manner set forth above.

11.2 Entire Agreement. This Agreement and the Schedules and Exhibits hereto contain the entire agreement and understanding between Buyer and Seller concerning the subject matter of this Agreement and supersede all prior agreements, including any previous letter of intent or terms, understandings, conditions, representations and warranties, whether written or oral, made by Buyer or Seller concerning the Property or the other matters which are the subject of this Agreement.

11.3 Amendments and Waivers. No addition to or modification of this Agreement shall be effective unless set forth in writing and signed by the party against whom the addition or modification is sought to be enforced. The party benefited by any condition or obligation may waive the same, but such waiver shall not be enforceable by another party unless made in writing and signed by the waiving party.

11.4 Invalidity of Provision. If any provision of this Agreement as applied to either party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

11.5 References. Unless otherwise indicated, (a) all Article, Section, Schedule and Exhibit references are to the articles, sections, schedules and exhibits of this Agreement, and (b) all references to days are to calendar days. All the Schedules and Exhibits attached hereto are incorporated herein by this reference. Whenever under the terms of this Agreement the time for performance of a covenant or condition falls upon a Saturday, Sunday or California state holiday, such time for performance shall be extended to the next business day. The headings used in this Agreement are provided for convenience only and this Agreement shall be interpreted without reference to any headings. The masculine, feminine or neuter gender and the singular or plural number shall be deemed to include the others whenever the context so indicates or requires.

11.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and to be performed in California. Venue shall be in Orange County.

11.7 Confidentiality and Publicity. The parties shall at all times keep this transaction and any documents received from each other confidential, except to the extent necessary to (a) comply with applicable law and regulations, or (b) carry out the obligations set forth in this Agreement. Any such disclosure to third parties shall indicate that the information is confidential and should be so treated by the third party. No press release or other public disclosure may be made by Seller or any of its agents concerning this transaction without the prior consent of Buyer.

11.8 Time. Time is of the essence in the performance of the parties' respective obligations under this Agreement.

11.9 Attorneys' Fees. In the event of any legal or equitable proceeding to enforce any of the terms or conditions of this Agreement, or any alleged disputes, breaches, defaults or misrepresentations in connection with any provision of this Agreement, the prevailing party in such proceeding shall be entitled to recover its reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and costs of defense paid or incurred in good faith.

11.10 Assignment. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. However, Seller shall not have the right to assign all or any portion of its interest in this Agreement without Buyer's prior written consent. Buyer shall have the right to assign all or any portion of its interest in this Agreement, or substitute for itself a nominee, upon notice to Seller not later than three days prior to the Closing Date.

11.11 Further Assurances. Seller, at any time before or after Closing, shall, at its own expense, execute, acknowledge and deliver any further deeds, assignments, conveyances and other assurances, documents and instruments of transfer reasonably requested by Buyer and shall take any other action consistent with the terms of this Agreement that may reasonably be requested by Buyer for the purpose of transferring and confirming to Buyer, or reducing to Buyer's possession, any or all of the Property or otherwise carrying out the terms of this Agreement.

11.12 Cooperation With Exchange. Each party agrees to cooperate with the other if such party intends to accomplish a tax-deferred exchange pursuant to Section 1031 of the Internal Revenue Code of 1986. Buyer and/or Seller may assign this Agreement to an exchange intermediary for the purpose of facilitating such an exchange by the assigning party. Buyer's duty to cooperate shall be limited to the transfer of money to Seller or Seller's designee in exchange for the Property, and in no event shall Buyer act as purchaser or acquirer of any exchange property. Seller's duty to cooperate shall be limited to the transfer of the Property to Buyer or Buyer's designee and in no event will Seller exchange the Purchase Property for any exchange property designated by Buyer. The requesting party shall indemnify and defend and hold the other party harmless from any claims, loss, damages or liability arising out of participation in an exchange.

11.13 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties to it and their respective permitted successors and assigns, nor is anything in this

Agreement intended to relieve or discharge any obligation of any third person to any party hereto or give any third person any right of subrogation or action over against any party to this Agreement.

11.14 Remedies Cumulative. The remedies set forth in this Agreement are cumulative and not exclusive to any other legal or equitable remedy available to a party.

11.15 Commissions, Indemnity, Disclosure. Each party represents to the other party that there is no broker representing such party in the current transaction, and that the representing party has incurred no liability for any brokerage commission or finder's fee arising from or relating to the transactions contemplated by this Agreement. Seller shall be responsible for any broker commission associated with this purchase. Each party hereby indemnifies and agrees to protect, defend and hold harmless the other party from and against all liability, cost, damage or expense (including without limitation attorneys' fees and costs incurred in connection therewith) on account of any brokerage commission or finder's fee which the indemnifying party has agreed to pay or which is claimed to be due as a result of the actions of the indemnifying party. This Section 11.15 is intended to be solely for the benefit of the parties hereto and is not intended to benefit, nor may it be relied upon by, any person or entity not a party to this Agreement.

11.16 Counterparts/Facsimile/.PDF Signatures. This Agreement may be executed in counterparts and when so executed by the parties, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument that shall be binding upon the parties, notwithstanding that the parties may not be signatories to the same counterpart or counterparts. The parties may integrate their respective counterparts by attaching the signature pages of each separate counterpart to a single counterpart. In order to expedite the transaction contemplated herein, facsimile or .pdf signatures may be used in place of original signatures on this Agreement. Seller and Buyer intend to be bound by the signatures on the facsimile or .pdf document, are aware that the other party will rely on the facsimile or .pdf signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

*[Signatures on following page]*

**SIGNATURE PAGE TO PURCHASE AND SALE AGREEMENT  
AND JOINT ESCROW INSTRUCTIONS**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

BUYER:

CITY OF ALISO VIEJO, a California municipal corporation

By:  \_\_\_\_\_

Its City Manager \_\_\_\_\_

ATTEST:

By:  \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
BEST BEST & KRIEGER LLP

By:  \_\_\_\_\_  
City Attorney

SELLER:

WILLIAM ZAPATA

By: \_\_\_\_\_

APPROVED AS TO FORM:  
LAW OFFICES OF \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Attorney for Seller

Acceptance by Escrow Holder

Escrow Holder acknowledges receipt of the foregoing Agreement and accepts the instructions contained therein.

Dated: \_\_\_\_\_, 2022

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT A  
LAND DESCRIPTION

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THE SEPARATE INTEREST WITH THE SAME UNIT AS THE CONDOMINIUM DESCRIBED ABOVE.

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RESERVING THEREFROM THE EXCLUSIVE RIGHT TO POSSESSION AND USE OF ANY EXCLUSIVE USE AREA SHOWN ON CONDOMINIUM PLAN.

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EXCEPT FROM ALL PARCELS ANY MINERAL, OIL OR GAS OR OTHER EXCEPTIONS OR RESERVATIONS OF RECORD, INCLUDING THE EXCEPTIONS SET FORTH IN DEED RECORDED SEPTEMBER 20, 1976, IN BOOK 11908, PAGES 527 TO 587, INCLUSIVE, OF OFFICIAL RECORDS OF ORANGE COUNTY.

ASSESSOR PARCEL NO. 938-142-82

EXHIBIT B  
PERSONAL PROPERTY INVENTORY

## EXHIBIT C

TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the CITY OF ALISO VIEJO, a California municipal corporation (the "Transferee"), that withholding of tax under Section 1445 of the Code will not be required upon the transfer of a U.S. real property interest to the Transferee by WILLIAM ZAPATA (the "Transferor"), the undersigned hereby certifies the following on behalf of the Transferor:

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);
2. The Transferor's U.S. social security address is \_\_\_\_\_; and
3. The Transferor's address is 38 Colonial Way, Aliso Viejo, California 92656.

The Transferor understands that this Certificate may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury I declare that I have examined this Certification and, to the best of my knowledge and belief, it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Transferor.

DATED: \_\_\_\_\_, 2022.

WILLIAM ZAPATA

By: \_\_\_\_\_

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO

City of Aliso Viejo

12 Journey, Suite 100  
Aliso Viejo, CA 92656  
ATTN: City Clerk

EXEMPT FROM RECORDING FEES PURSUANT  
TO GOVERNMENT CODE SECTION 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 938-142-82

## Grant Deed

The undersigned Grantor(s) declare(s): City of Aliso Viejo is exempt from property taxes  
Documentary transfer tax is \$0.

- Computed on full value of property conveyed, or
- Computed on full value less value of liens and encumbrances remaining at time of sale.
- Unincorporated area  City of \_\_\_\_\_ and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**WILLIAM ZAPATA, a single man**

hereby GRANT(S) to

CITY OF ALISO VIEJO, a California municipal corporation

the following described real property in the City of Aliso Viejo  
County of Orange  
State of California:

SEE ATTACHED EXHIBIT A

Dated: \_\_\_\_\_, 2022

WILLIAM ZAPATA

By: \_\_\_\_\_

EXHIBIT A  
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THAT CERTAIN DEED AND DECLARATION ESTABLISHING ACCESS EASEMENT RIGHTS DESCRIBED IN THE DEED TO WHICH THIS EXHIBIT IS ATTACHED.

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ASSESSOR PARCEL NO. 938-142-82

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2022 before me, \_\_\_\_\_, Notary Public, personally appeared WILLIAM ZAPATA, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_ (seal)

CERTIFICATE OF ACCEPTANCE

Pursuant to Section 27281 of the California Government Code

This is to certify that the interest in real property conveyed by the Grant Deed dated \_\_\_\_\_, 2022, from **William Zapata, a single man** ("Grantor"), to the **City of Aliso Viejo**, a California municipal corporation ("Grantee"), is hereby accepted by the undersigned officer on behalf of the City of Aliso Viejo, pursuant to the authority conferred by Resolution No. \_\_\_\_\_, adopted by the City Council of the City of Aliso Viejo on \_\_\_\_\_, 2022, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_, 2022

CITY OF ALISO VIEJO

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

## EXHIBIT E

BILL OF SALE

This Bill of Sale (the "Bill of Sale") is made as of \_\_\_\_\_, 2022, by WILLIAM ZAPATA ("Transferor").

FOR VALUABLE CONSIDERATION, as set forth in that certain Purchase and Sale Agreement dated \_\_\_\_\_, 2022 (the "Agreement"), Transferor hereby sells, transfers, assigns and delivers to the CITY OF ALISO VIEJO, a California municipal corporation ("Transferee"), any and all personal property (the "Personal Property") located within or used in connection with that certain real property commonly known as 38 Colonial Wat, Aliso Viejo, California also known as County of Orange, APN 938-142-82 (the "Real Property"), as more particularly described in Schedule 1 attached hereto. The Personal Property shall include, without limitation, the items described in the Personal Property Inventory attached hereto as Schedule 2.

1. Transferor hereby assigns all warranties, guarantees and indemnities, whether those warranties are express or implied, and all similar rights which Transferor may have against any other manufacturer or supplier of the Personal property or any portion thereof or against any seller, engineer, contractor or builder, in respect of the Personal Property.

2. Transferor warrants that each item of the Personal Property is in good condition, order and repair and suitable for its intended purpose on the date of this Bill of Sale.

3. Transferor at any time at or after the date of this Bill of Sale shall execute, acknowledge and deliver any further deeds, assignments, conveyances and other assurances, documents and instruments of transfer reasonably requested by Transferee, and shall take any other action consistent with the terms of this Bill of Sale that may reasonably be requested by Transferee for the purpose of granting and confirming to Transferee, or reducing to Transferee's possession, any or all of the Personal Property. If requested by Transferee, Transferor further agrees to prosecute or otherwise enforce in its own name for the benefit of Transferee any claims, rights or benefits included in the Personal Property that require prosecution or enforcement in Transferor's name. Transferor also hereby appoints Transferee as its agent to act in Transferor's name and on Transferor's behalf to take any action necessary to effect the transfer of any of the Personal Property to Transferee, or prosecute or otherwise enforce any claims, rights or benefits included in the Personal Property in Transferor's name, including bringing suit in Transferor's name.

4. This Bill of Sale shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

DATED: \_\_\_\_\_, 2022.

TRANSFEROR:

WILLIAM ZAPATA

By \_\_\_\_\_

SCHEDULE 1

LEGAL DESCRIPTION OF REAL PROPERTY

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ASSESSOR PARCEL NO. 938-142-82

SCHEDULE 2

PERSONAL PROPERTY INVENTORY

EXHIBIT F

GENERAL ASSIGNMENT

This Assignment (the "Assignment") is made as of \_\_\_\_\_, 2022, by WILLIAM ZAPATA ("Assignor").

FOR VALUABLE CONSIDERATION, as set forth in that certain Agreement of Purchase and Sale and Joint Escrow Instructions dated \_\_\_\_\_, 2022 (the "Agreement"), Assignor hereby assigns and transfers to the CITY OF ALISO VIEJO, a California municipal corporation ("Assignee"), with respect to the real property described in Schedule 1, following:

A. All equipment leases, service and/or maintenance agreements and contracts relating to the Real Property (collectively, the "Contracts"), as more particularly described in Schedule 2 attached hereto;

B. All permits, licenses, consents, registrations and other similar approvals applicable to the Real Property (collectively, the "Approvals"), which Approvals are more particularly described in Schedule 3 attached hereto;

C. All as-built plans and specifications for: (1) the Real Property; (2) any and all improvements used in connection with the operation or occupancy of the Real Property or located upon the Real Property (the "Improvements"); and (3) any and all personal property owned by Assignor located within or used in connection with the operation of the Real Property and Improvements (the "Personal Property") (collectively, the "Plans"); and

D. All warranties of which Assignor is the beneficiary (the "Warranties") with respect to the Improvements or Personal Property.

This Assignment shall not supersede the Agreement and, in the event of conflict between this Assignment and the Agreement, the Agreement shall control.

This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, Assignor has executed this Assignment as of the date first above written.

ASSIGNOR:

WILLIAM ZAPATA

By \_\_\_\_\_

## SCHEDULE 1

LEGAL DESCRIPTION OF REAL PROPERTY

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ASSESSOR PARCEL NO. 938-142-82

SCHEDULE 2

CONTRACTS

SCHEDULE 3

APPROVALS

# City of Aliso Viejo

## **AGENDA ITEM**



DATE: September 7, 2022

TO: Mayor and City Council

FROM: David Doyle, City Manager  
Patricia Cantonwine, HR Analyst

SUBJECT: RESOLUTION AMENDING CITY EMPLOYEE SALARY SCHEDULE FOR  
IT ANALYST POSITION

---

### **Recommended Action:**

Adopt a Resolution amending employee salary schedule for IT Analyst position.

### **Fiscal Impact:**

The recommended annual salary range maximum will increase from \$84,587 to \$96,702, an increase of \$12,115. Retirement and other benefit costs based on salary will increase between \$1,587 and \$2,780. The actual annual impact will be dependent on the recruitment of the position. Funds are available in the adopted FY 2022-23 budget.

### **Background:**

The City's information technology (IT) functions have been performed internally since 2016. During that time, the staffing level has developed into three (3) full-time tiered staff positions, which include entry-level (IT Analyst), mid-level (Systems Administrator), and management (IT Manager). The full-time IT Analyst position was added in 2019 to replace a then existing part-time help desk assistant. This position was intended to assist with the general maintenance and operational functions of the IT Division.

### **Discussion:**

Since the establishment of the IT Analyst position, there have been many technological advances, and the City has added several new software platforms. With these changes, the duties of this position have expanded, and the level of responsibility has increased. Additionally, given the size of the organization and the growing demands upon staff, it has become clear that this entry position needs a broader range of functionality to allow for cross-over and adequate resources during peak workflow and periods of absence.

Recently the incumbent resigned, and it became necessary to reevaluate the organizational needs and the expectations of this position. Consequently, staff conducted a review of these needs and expectations. In connection with the changes in duties and responsibilities, it was also important to revisit the salary range to ensure the duties are in keeping with the compensation.

In 2018 the City underwent a comprehensive classification and compensation study and the salary ranges for the existing positions were compared with 13 local comparable municipalities to assess the City's position within the market. Several salary ranges were adjusted at that time to bring the City's salary schedule in line with this market. The IT Analyst position was not included in this study since it was not added until 2019.

Consequently, a compensation survey has been conducted with these same 13 local municipalities. The result of this survey demonstrates that the position even as it previously existed was 10.11% below the average of surveyed agencies.

Due to the competitive nature of the market in the IT arena and the need to recruit and retain highly qualified candidates, it is recommended that the new salary range be established slightly higher than the survey average and at a level that sustains appropriate internal differentials within the IT Division as well as internal parity Citywide. Consequently, it is recommended that the salary range be adjusted to \$70,327 - \$96,702. This represents a 14.3% increase to the range, placing it in the upper range of the survey group.

**Attachments:**

1. Resolution
2. Salary Schedule

RESOLUTION NO. 2022-\_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, APPROVING A SALARY SCHEDULE FOR CITY OF ALISO VIEJO EMPLOYEES**

**WHEREAS**, on June 9, 2019, the City Council created and included the position of IT Analyst in the salary schedule; and

**WHEREAS**, the employee salary schedule is adjusted on July 1st of each year based on the Annual Consumer Price Index, Urban Wage Earners and Clerical Workers, Los Angeles-Long Beach-Anaheim, in accordance with the City’s Classification and Compensation Plan; and

**WHEREAS**, a compensation survey has since been conducted that demonstrates the IT Analyst salary range is below average; and,

**WHEREAS**, on September 7, 2022, Council considered and approved an amended salary range for the IT Analyst of \$70,327 - \$96,702,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALISO VIEJO AS FOLLOWS:**

Section 1. Effective September 7, 2022, the salary range for IT Analyst shall be \$70,327 - \$96,702 as contained in Exhibit A, Salary Schedule.

**PASSED, APPROVED AND ADOPTED** this 7<sup>th</sup> day of September 2022.

\_\_\_\_\_  
Ross Chun  
Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott C. Smith  
City Attorney

\_\_\_\_\_  
Mitzi Ortiz, MMC  
City Clerk

STATE OF CALIFORNIA        )  
COUNTY OF ORANGE        ) ss.  
CITY OF ALISO VIEJO        )

I, MITZI ORTIZ, City Clerk of the City of Aliso Viejo, California, DO HEREBY CERTIFY that the foregoing is the original of Resolution No. 2022-\_\_ duly passed and adopted by the City Council of the City of Aliso Viejo at their regular meeting held on the 7th day of September, 2022, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

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MITZI ORTIZ, MMC  
CITY CLERK

**City of Aliso Viejo  
Salary Schedule  
Effective September 7, 2022**

<b>Full-Time Classifications</b>	<b>Annual Range Minimum</b>	<b>Annual Control Point</b>	<b>Annual Range Maximum</b>
Accountant	\$70,327	\$80,586	\$96,702
Accountant/Payroll	\$66,978	\$76,748	\$92,098
Accounting Technician	\$50,322	\$57,662	\$69,195
Accounting Supervisor	\$96,698	\$110,803	\$132,959
Administrative Secretary	\$54,227	\$67,306	\$80,767
Assistant Planner	\$66,097	\$75,738	\$90,886
Associate Engineer	\$90,398	\$103,585	\$124,302
Associate Planner	\$77,555	\$88,867	\$106,641
City Clerk	\$118,338	\$135,596	\$162,715
City Manager (Contract)			\$313,585
Director of Administrative Services	\$154,566	\$181,635	\$217,963
Director of Community Development	\$154,566	\$181,635	\$217,963
Director of Financial Services/City Treasurer	\$154,566	\$181,635	\$217,963
Director of Government Services	\$154,566	\$181,635	\$217,963
Director of Public Works	\$154,566	\$181,635	\$217,963
Director of Recreation and Community Services	\$154,566	\$181,635	\$217,963
Executive Assistant	\$66,882	\$76,638	\$91,965
Facilities Supervisor	\$79,339	\$90,910	\$109,092
Financial Analyst	\$70,327	\$80,586	\$96,702
Financial Services Manager	\$112,514	\$128,926	\$154,711
Human Resources Analyst	\$79,339	\$90,910	\$109,092
IT Analyst	\$70,327	\$80,586	\$96,702
IT Manager	\$115,488	\$136,661	\$163,993
Junior Accountant	\$60,889	\$69,772	\$83,726
Management Analyst	\$72,577	\$83,165	\$99,797
Office Assistant	\$41,364	\$47,397	\$56,877
Office Specialist	\$45,500	\$55,643	\$66,771
Permit Technician	\$60,217	\$69,190	\$83,028
Planning Technician	\$55,720	\$63,847	\$76,616
Recreation Coordinator	\$64,194	\$73,558	\$88,270
Recreation and Community Services Manager	\$107,137	\$122,765	\$147,317
Recreation and Community Services Supervisor	\$73,823	\$84,592	\$101,510
Recreation Specialist	\$45,026	\$51,594	\$61,913
Secretary to the City Manager	\$66,882	\$81,438	\$97,725
Senior Accountant	\$80,876	\$92,674	\$111,208
Senior Planner	\$90,245	\$103,409	\$124,091
Senior Planner I	\$90,245	\$113,397	\$136,076
Streets Supervisor	\$79,339	\$90,910	\$109,092
Systems Administrator	\$84,321	\$98,687	\$118,423

**City of Aliso Viejo  
Salary Schedule  
Effective September 7, 2022**

<b>Elected Officials</b>	<b>Compensation</b>
Council Members (Municipal Code)	\$520
Mayor (Municipal Code)	\$520

<b>Part-Time Classifications</b>	<b>Minimum</b>	<b>Point</b>	<b>Maximum</b>
Crime Prevention Specialist	\$30.01	\$34.39	\$41.27
Human Resources Manager	\$51.78	\$61.49	\$71.20
Office Assistant	\$19.89	\$22.79	\$27.34
Planning Aide	\$15.74	\$18.04	\$21.65
Recreation Leader	\$15.00	\$16.66	\$20.00
Senior Recreation Leader	\$17.25	\$19.16	\$23.00

# City of Aliso Viejo

## **AGENDA ITEM**



DATE: September 7, 2022

TO: Mayor and City Council

FROM: So Kim, Community Development Director  
John Kanlund, Contract Planner

SUBJECT: FENNEL MEDITERRANEAN KITCHEN AND BAR AT 26611 ALISO CREEK ROAD, SUITE A OF THE ALISO VIEJO TOWN CENTER (ADMINISTRATIVE USE PERMIT AND SITE DEVELOPMENT PERMIT TO ESTABLISH A NEW RESTAURANT SERVING FULL ALCOHOL AND PERFORM TENANT IMPROVEMENTS INCLUDING EXTERIOR MODIFICATIONS)

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### **Recommended Action:**

Continue the public hearing to a date uncertain.

### **Fiscal Impact:**

None

### **Background:**

On July 20, 2022, the City Council opened this public hearing, accepted testimony, and continued the public hearing to August 17, 2022. On August 17, 2022, the City Council opened the continued public hearing, accepted additional testimony, and continued the public hearing to September 7, 2022.

### **Discussion:**

In May 2021, the City issued a stop work order for unpermitted work at 26611 Aliso Creek Road, Suite A (applicant for Fennel Mediterranean Kitchen and Bar, formerly Panini Kabob Grill). The applicant was directed to obtain applicable permits to lift the stop work order and legalize the unpermitted work. In response, the applicant applied for permits in June 2021. Since that time, the applicant continued conducting unpermitted work and a new permit was issued for the expanded scope of work in March 2022. The new permit only covers the interior tenant improvement work and does not include the unpermitted work in the patio area as it requires planning entitlements subject to City Council's consideration.

On September 23, 2021, the applicant submitted a planning application (Administrative Use and Site Development Permits PA21-025) to address the unpermitted work in the patio area and to establish a new restaurant (Fennel Mediterranean Kitchen and Bar) with full alcohol service.

Since the original stop work order in May 2021, City staff communicated with the applicant numerous times, via phone and email, and in person to move the project forward. Despite this effort, the applicant has not been cooperative, continued unpermitted work, and has not requested inspections for the open building permit to legalize the unpermitted interior work.

Pursuant to the City's Municipal Code Section 15.74.010.C., "Notwithstanding the provisions of this chapter, no discretionary permit shall be processed or approved if the city has identified any uncorrected violation of this code on the property." In other words, the planning application cannot be processed until the applicant corrects the existing violations by completing the inspections and passing final inspection of the interior work. Therefore, staff is recommending that the pending application be continued to a date uncertain. Staff will re-notice this application after the applicant has completed necessary inspections on the existing building permit for the interior work.

**Public Notice:**

The public hearing notice was published in the Laguna Niguel News on July 7, 2022; however, the notice was not mailed to surrounding property owners and tenants in anticipation of the continuance. The notices of continued public hearing were posted at City Hall on July 21, 2022, and August 18, 2022, in accordance with California Government Code Section 54955.1.

# City of Aliso Viejo

## **AGENDA ITEM**



DATE: September 7, 2022

TO: Mayor and City Council

FROM: Captain Scott Merrill, Chief of Police Services

SUBJECT: AMENDMENT TO ALISO VIEJO MUNICIPAL CODE CHAPTER 10.06, PEDESTRIAN, BICYCLE, AND SKATEBOARD REGULATIONS, AND CHAPTER 11.10, PARKS, TO REGULATE ELECTRIC BICYCLES, BOARDS, AND OTHER MOTORIZED RECREATIONAL OF ELECTRIC TRANSPORTATION

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### **Recommended Actions:**

1. Find that the proposed Ordinance is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Sections 15378(a), 15301(c), and 15061(b)(3); and
2. Introduce for first reading an Ordinance titled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, AMENDING CHAPTER 10.06 (PEDESTRIAN, BICYCLE, AND SKATEBOARD REGULATIONS) OF TITLE 10 (STREETS AND SIDEWALKS) AND CHAPTER 11.10 (PARKS) OF TITLE 11 (PARKS AND PUBLIC SPACES) OF THE ALISO VIEJO MUNICIPAL CODE, ESTABLISHING REGULATIONS RELATING TO ELECTRIC BICYCLES, MOTORIZED SCOOTERS, AND OTHER ELECTRICALLY MOTORIZED BOARDS ON SIDEWALKS AND PARKS IN THE CITY.

### **Fiscal Impact:**

There is no fiscal impact associated with the recommended action.

### **Background:**

The City of Aliso Viejo ("City") currently regulates the use of non-motorized bicycles, scooters, roller skates and in-line skates on sidewalks and trails, and in parks. In recent years, however, the use of motorized recreational transportation such as electric bicycles and electric skateboards have grown in popularity throughout the State, including within the City.

While the Vehicle Code regulates electric bicycles and boards, it leaves room for local agencies to impose some local regulations. The proposed ordinance (Attachment 1) would regulate motorized recreational transportation in the same manner that non-motorized recreational transportation is currently regulated by the Aliso Viejo Municipal Code (“AVMC”).

### **Discussion:**

By adopting the proposed ordinance, the City will be regulating these new forms of electronically powered modes of transportation and giving law enforcement the ability to address an issue that has been a cause for concern for both the public and law enforcement. OCSD will have the ability to issue citations when contacting a subject or subjects who are in violation of the AVMC. Additionally, due to the number of issues with these modes of transportation, it is prudent to update the sections of the AVMC related to parks within the City to further address the matter. The proposed ordinance will give law enforcement the ability issue citations in both public and private parks, provided appropriate signs are posted.

While enforcement is important, the primary purpose of the proposed ordinance is to reduce unnecessary risk to members of the public. Staff recognizes motorized recreational transportation has a place in the community as long as it is being operated in a safe manner. Given the concerns for both the transportation operators and pedestrians, the proposed ordinance would generally provide as follows:

- **Definitions.** Defines electric bicycles, electrically motorized boards (i.e., electric skateboards), electric personal assistive mobility devices (i.e., segways), and motorized scooters (collectively, “motorized recreational transportation”) to match Vehicle Code definitions, as they may be amended;
- **Sidewalks.** Motorized recreational transportation may be ridden or operated on sidewalks at a speed not to exceed five miles per hour and only at a speed that is reasonable, taking into account weather, visibility, and pedestrian traffic. This is similar to existing regulations on nonmotorized recreational transportation like bicycles;
- **Prohibitions:** Motorized recreational transportation may not be ridden or operated on certain sidewalks such as within a commercial center or complex, and in City parking lots. This prohibition matches the current prohibitions on the use of nonmotorized bicycles, rollerblades, etc. The Public Works Director could designate additional prohibitions where these modes of transportation could be operated.
- **ADA Carve-out.** Wheelchairs and other power-driven mobility devices may be ridden or operated on sidewalks and in parks at the speed of pedestrian traffic and in a manner that is safe for the user and pedestrians.

- Parks - Skateboards. Prohibits motorized boards and electric scooters from being ridden or operated in parks or recreational areas except in designated areas, or unless the owner of a private park provides consent. These prohibitions are similar to existing AVMC prohibitions on nonmotorized skateboards, roller skates, and in-line skates.
- Parks – Bicycles. Allows electric bicycles to be ridden or operated in a designated park or recreational area as long as the operation does not endanger any person, and in no event more than 10 miles per hour. This follows the existing allowance of non-motorized bicycles within designated parks and recreational areas.

### **Environmental:**

This Ordinance is not a “project” subject to the California Environmental Quality Act (CEQA). The Ordinance does not qualify as a project because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, § 15378, subd. (a).) The language simply regulates the use of motorized recreational transportation such as electric bicycles on sidewalks and parks within the City. Even if this Ordinance is considered a “project” subject to CEQA, it is categorically exempt pursuant Section 15301, subdivision (c) because it consists of minor alteration of existing sidewalks and pedestrian crossings involving negligible or no expansion of existing or former use. In addition, the Ordinance falls within the “common sense” exemption set forth in State CEQA Guidelines section 15061, subdivision (b)(3), which exempts activity from CEQA where “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” Here, it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment because the Ordinance simply regulates the use of motorized recreational transportation, such as electric bicycles, on sidewalks and parks within the City; it will not result in any development or in any new activity with the potential to impact the environment. City staff shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

### **Attachments:**

1. Proposed Ordinance
2. Draft Ordinance (Redline)

**ORDINANCE NO. 2022-\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, AMENDING CHAPTER 10.06 (PEDESTRIAN, BICYCLE, AND SKATEBOARD REGULATIONS) OF TITLE 10 (STREETS AND SIDEWALKS) AND CHAPTER 11.10 (PARKS) OF TITLE 11 (PARKS AND PUBLIC SPACES) OF THE ALISO VIEJO MUNICIPAL CODE, ESTABLISHING REGULATIONS RELATING TO ELECTRIC BICYCLES, MOTORIZED SCOOTERS, AND OTHER ELECTRICALLY MOTORIZED BOARDS ON SIDEWALKS AND PARKS IN THE CITY**

**WHEREAS**, the City of Aliso Viejo (“City”) is authorized under its police power to enact regulations to preserve the public, health, and safety; and

**WHEREAS**, the City’s Code currently regulates the operation of bicycles within the City but does not explicitly address electric bicycles, motorized scooters, and electrically motorized boards, which have seen increased usage throughout the City and State; and

**WHEREAS**, the City wishes to update its Code to explicitly refer to the aforementioned electric modes of transportation and to define those terms in the same manner as they are used in the Vehicle Code so that there is no confusion or inconsistency between local and State law; and

**WHEREAS**, the Vehicle Code provides that local authorities, like the City, may regulate electric bicycles, motorized scooters, and electrically motorized boards in a manner that does not conflict with State law; and

**WHEREAS**, the City wishes to regulate electric bicycles, motorized scooters, electrically motorized, and similar motorized recreational forms of transportation as allowed by State law.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALISO VIEJO AS FOLLOWS:**

**SECTION 1. Recitals.** The above recitals are true and correct and incorporated herein.

**SECTION 2. CEQA.** This Ordinance is not a “project” subject to the California Environmental Quality Act (CEQA). The Ordinance does not qualify as a project because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, § 15378, subd. (a).) The language simply regulates the use of motorized recreational transportation such as electric bicycles on sidewalks and parks within the City. Even if this Ordinance is considered a “project” subject to CEQA, it is categorically exempt pursuant Section 15301, subdivision (c) because it consists of minor alteration of existing sidewalks and pedestrian crossings involving negligible or no expansion of existing or former use. In addition, the Ordinance

falls within the “common sense” exemption set forth in State CEQA Guidelines section 15061, subdivision (b)(3), which exempts activity from CEQA where “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” Here, it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment because the Ordinance simply regulates the use of motorized recreational transportation, such as electric bicycles, on sidewalks and parks within the City; it will not result in any development or in any new activity with the potential to impact the environment. City staff shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

**SECTION 3. Code Amendment.** Chapter 10.06, titled, “Pedestrian, Bicycle, and Skateboard Regulations,” of Title 10 (Streets and Sidewalks) of the Aliso Viejo Municipal Code, is hereby amended and restated to read in its entirety as follows:

**“Chapter 10.06 PEDESTRIAN, BICYCLE, AND SKATEBOARD REGULATIONS<sup>1</sup>**

**Sections:**

**10.06.010 Definitions.**

**10.06.020 Bicycle operation.**

**10.06.030 Bicycles and other recreational transportation on sidewalks.**

**10.06.040 Skateboards, roller skates and similar pedestrian traffic.**

**10.06.050 Pedestrian movements.**

**10.06.010 Definitions.**

“Electric bicycle” means an electric bicycle equipped with both fully operable pedals and an electric motor, as further defined by Vehicle Code section 312.5, as it may be amended from time to time. “Electrically motorized board” means any wheeled device that has a floorboard designed to be stood upon when riding, is designed to transport only one person, and has an electric propulsion system, as further defined by Vehicle Code section 313.5, as it may be amended from time to time.

“Electric personal assistive mobility device” means a self-balancing, nontandem two-wheeled device that can turn in place, designed to transport only one person, with an electric propulsion system, as further defined by Vehicle Code section 313, as may be amended from time to time.

“Motorized scooter” means any two-wheeled device that has handlebars, has either a floorboard that is designed to be stood upon when riding or a seat and

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<sup>1</sup> **Cross-references:** violations and penalties generally, Chapter 1.06 AVMC; skateboards, roller skates and in-line skates in parks, AVMC 11.10.140; bicycles in parks, AVMC 11.10.220.

footrests in place of the floorboard, and is powered by and electric motor, as further defined by Vehicle Code section 407.5, as may be amended from time to time. "Motorized vehicle" shall have the same meaning as "motorized vehicle" or "moped," as further defined by Vehicle Code section 406, as it may be amended from time to time.

**10.06.020 Bicycle operation.**

- A. Direction of Travel. Persons riding or operating a bicycle or electric bicycle on a bicycle trail or path may proceed in either direction except on those trails or paths designated for one-way traffic by appropriate markings or signs.
- B. Walking Bicycles. Bicycles and electric bicycles may be walked subject to all provisions of the law applicable to pedestrians.

**10.06.030 Recreational transportation on sidewalks.**

- A. Riding on Sidewalks. Bicycles, electric bicycles, roller skates, roller blades, nonmotorized and motorized scooters, nonmotorized skateboards, electrically motorized boards, electric personal assistive mobility devices, and other similar nonmotorized and motorized forms of transportation may be ridden or operated on all sidewalks within the City at a speed not to exceed five miles per hour except as otherwise prohibited by this chapter. Motorized vehicles shall not be permitted to be ridden upon sidewalks.
- B. Nonmotorized and motorized recreational transportation, as provided in subsection (A) of this section, shall be operated at a speed that is reasonable or prudent, having due regard for weather, visibility, pedestrian and vehicular traffic, and the surface and width of the sidewalk, and in no event at a speed that endangers the safety of any person or property.
- C. Prohibitions. Notwithstanding subsection (A) of this section, bicycles, electric bicycles, roller skates, roller blades, nonmotorized and motorized scooters, nonmotorized skateboards, electrically motorized boards, electric personal assistive mobility devices, and other similar nonmotorized and motorized forms of transportation shall not be ridden or operated upon the following:
  - 1. Sidewalks within a commercial or business center or complex;
  - 2. Sidewalks adjacent to any public school building when school is in session;
  - 3. Sidewalks and parking lots adjacent to or within any community or recreation center when in use;

4. Sidewalks adjacent to a church during services;
  5. Parking lots of any property owned or operated by the City; or
  6. Any pedestrian overcrossing or other sidewalk where prohibited by posted signs.
- D. Public Works Director to Designate Additional Prohibitions. Notwithstanding subsection (A) of this section, the public works director, or his or her designee, may designate and declare certain portions of sidewalk where the riding or operation of bicycles, electric bicycles, roller skates, roller blades, nonmotorized and motorized scooters, nonmotorized skateboards, electrically motorized boards, electric personal assistive mobility devices, and other similar nonmotorized and motorized forms of transportation is prohibited.
- E. Public Works Director to Post Signs. The public works director, or his or her designee, shall erect and maintain signs adjacent to sidewalks designating limits and prohibitions authorized by this chapter.
- F. No Effect on ADA Power-Driven Mobility Devices. Notwithstanding anything to the contrary, wheelchairs and other power-driven mobility devices used as a mobility aid by a person with a disability may be ridden or operated on all sidewalks in the City at the speed of pedestrian traffic and in a manner which is safe for the user and other pedestrians.
- G. Yielding Right-of-Way. Whenever any person is riding a bicycle, electric bicycle, roller skates, roller blades, a nonmotorized or motorized scooter, a nonmotorized skateboard, electrically motorized board, electric personal assistive mobility devices, or other similar nonmotorized or motorized form of transportation, such person shall yield right-of-way to any and all pedestrians. A person riding or operating any such form of transportation shall further yield to all traffic upon entering a roadway or driveway.

**10.06.040 Skateboards, roller skates and similar pedestrian traffic.**

- A. No person shall ride a nonmotorized skateboard, electric personal assistive mobility devices, roller skates, roller blades, nonmotorized scooter, or other conveyance propelled by human power other than a bicycle, or cause or permit the same to roll or coast on the roadway of any street in the city.
- B. The provisions of subsection (A) of this section shall not apply to cul-de-sacs where the length of the cul-de-sac is 500 feet or less.

**10.06.050 Pedestrian movements.**

The public works director, or his or her designee, is hereby authorized to place and maintain signs or markings to prohibit or to restrict pedestrian crossings at certain intersections.”

**SECTION 4. Code Amendment.** The following definitions are hereby added to Section 11.10.020 of Chapter 11.10 (Parks) of Title 11 (Parks and Public Places) of the Aliso Viejo Municipal Code to read as follows:

**“11.10.20 Definitions.**

The following definitions apply to the use of these terms for purposes of this chapter:

‘Electric bicycle’ means an electric bicycle equipped with both fully operable pedals and an electric motor, as further defined by Vehicle Code section 312.5, as it may be amended from time to time.

‘Electrically motorized board’ means any wheeled device that has a floorboard designed to be stood upon when riding, is designed to transport only one person, and has an electric propulsion system, as further defined by Vehicle Code section 313.5, as it may be amended from time to time.

‘Electric personal assistive mobility device’ means a self-balancing, nontandem two-wheeled device that can turn in place, designed to transport only one person, with an electric propulsion system, as further defined by Vehicle Code section 313, as may be amended from time to time.

‘Motorized scooter’ means any two-wheeled device that has handlebars, has either a floorboard that is designed to be stood upon when riding or a seat and footrests in place of the floorboard, and is powered by and electric motor, as further defined by Vehicle Code section 407.5, as may be amended from time to time.”

**SECTION 5. Code Amendment.** Section 11.10.140 (Skateboards, roller skates and in-line skates) of Chapter 11.10 (Parks) of Title 11 (Parks and Public Places) of the Aliso Viejo Municipal Code is hereby amended in its entirety and restated to read as follows:

**“11.10.140 Skateboards, roller skates and in-line skates.**

- A. Skateboards. No person shall ride a skateboard, including but not limited to scooters and mountain skateboards, or similar conveyances propelled by human power, other than a bicycle, or cause or permit same to roll or coast in any designated park or recreational area except in areas designated and under conditions established by the director or, in the case of a private park, the consenting owner.

- B. Electrically motorized board. No person shall ride an electrically motorized board, or similar conveyances propelled by motor, including, without limitation, a motorized scooter or an electric personal assistive mobility device, or cause or permit same to roll or coast in any designated park or recreational area except in areas designated and under conditions established by the director or, in the case of a private park, the consenting owner.
- C. Roller Skates and In-Line Skates. No person shall ride roller skates, in-line skates, or similar conveyances propelled by human power, other than a bicycle, or cause or permit it to roll or coast in any designated park or recreational area where the director or, in the case of a private park, the consenting owner, has posted signs to prohibit such activity. No person shall ride roller skates, in-line skates, or similar conveyances on any unpaved trail in any designated park or recreational area except in areas designated and under conditions established by the director or, in the case of a private park, the consenting owner.
- D. No Effect on ADA Power-Driven Mobility Devices. Notwithstanding anything to the contrary, wheelchairs and other power-driven mobility devices used as a mobility aid by a person with a disability may be ridden or operated at the speed of pedestrian traffic and in a manner which is safe for the user and other individuals.”

**SECTION 6. Code Amendment.** Section 11.10.220 (Bicycles) of Chapter 11.10 (Parks) of Title 11 (Parks and Public Places) of the Aliso Viejo Municipal Code is hereby amended in its entirety and restated to read as follows:

**“11.10.220 Bicycles.**

- A. Designated Trails. No person shall operate a bicycle or an electric bicycle on a road or trail in any designated park or recreational area except upon roads or trails designated for bicycle and/or electric bicycle traffic by the director or, in the case of a private park, the consenting owner.
- B. Unsafe Operation. No person shall operate a bicycle or an electric bicycle in any designated park or recreational area in any manner that endangers any person or animal or at a speed that is greater than is reasonable or prudent, having due regard for other users and the surface, width, and grade of the road or trail, and in no event in excess of 10 miles per hour, unless a greater speed is posted.
- C. Bicycle and Electric Bicycle Parking. No person shall leave a bicycle or electric bicycle lying on its side on a road or trail in any designated park or recreational area in such a way to obstruct pedestrian, equestrian, or vehicle traffic.

- D. Helmets. No person under 18 years of age shall operate a bicycle or an electric bicycle, or ride upon a bicycle or an electric bicycle as a passenger on any road, bikeway or trail in any designated park or recreational area unless that person is wearing a properly fitted and fastened bicycle helmet. The bicycle helmet must meet the standards set forth in California Vehicle Code Section 21212.
  
- E. No Effect on ADA Power-Driven Mobility Devices. Notwithstanding anything to the contrary, wheelchairs and other power-driven mobility devices used as a mobility aid by a person with a disability may be ridden or operated at the speed of pedestrian traffic and in a manner which is safe for the user and other individuals.”

**SECTION 7. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

**SECTION 8. Effective Date.** This Ordinance shall take effect 30 days after its adoption.

**SECTION 9. Publication.** The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within 15 days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

**SECTION 10. Record of Proceedings.** The documents and materials associated with this ordinance that constitute the record of proceedings on which these findings are based are located at Aliso Viejo City Hall, 12 Journey, Suite 100, Aliso Viejo, California 92656. The City Clerk is the custodian of the record of proceedings.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
 Ross Chun  
 Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
 Scott C. Smith, City Attorney

\_\_\_\_\_  
 Mitzi Ortiz, MMC, City Clerk

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            ) ss.  
CITY OF ALISO VIEJO            )

I, MITZI ORTIZ, City Clerk of the City of Aliso Viejo, California, DO HEREBY CERTIFY that foregoing Ordinance No. 2022-\_\_\_\_ was duly passed and adopted by the City Council of the City of Aliso Viejo at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2022, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
MITZI ORTIZ, MMC  
CITY CLERK

(SEAL)

## REDLINE

### CODE AMENDMENT TO CH. 10.06

#### “Chapter 10.06 PEDESTRIAN, BICYCLE, AND SKATEBOARD REGULATIONS<sup>1</sup>”

Sections:

~~10.06.010~~ Bicycle operation. Definitions.

~~10.06.020~~ Bicycle operation.

~~10.06.030~~ Bicycles and other recreational transportation on sidewalks.

~~10.06.040~~ Skateboards, roller skates and similar pedestrian traffic.

~~10.06.050~~ Pedestrian movements.

#### 10.06.010 Definitions.

“Electric bicycle” means an electric bicycle equipped with both fully operable pedals and an electric motor, as further defined by Vehicle Code section 312.5, as it may be amended from time to time.

“Electrically motorized board” means any wheeled device that has a floorboard designed to be stood upon when riding, is designed to transport only one person, and has an electric propulsion system, as further defined by Vehicle Code section 313.5, as it may be amended from time to time.

“Electric personal assistive mobility device” means a self-balancing, nontandem two-wheeled device that can turn in place, designed to transport only one person, with an electric propulsion system, as further defined by Vehicle Code section 313, as may be amended from time to time.

“Motorized scooter” means any two-wheeled device that has handlebars, has either a floorboard that is designed to be stood upon when riding or a seat and footrests in place of the floorboard, and is powered by and electric motor, as further defined by Vehicle Code section 407.5, as may be amended from time to time.

“Motorized vehicle” shall have the same meaning as “motorized vehicle” or “moped,” as further defined by Vehicle Code section 406, as it may be amended from time to time.

#### ~~10.06.020~~ Bicycle operation.

- A. Direction of Travel. Persons riding or operating a bicycle or electric bicycle on a bicycle trail or path may proceed in either direction except on those

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<sup>1</sup> **Cross-references:** violations and penalties generally, Chapter 1.06 AVMC; skateboards, roller skates and in-line skates in parks, AVMC 11.10.140; bicycles in parks, AVMC 11.10.220.

trails or paths designated for one-way traffic by appropriate markings or signs.

- B. Walking Bicycles. Bicycles and electric bicycles may be walked subject to all provisions of the law applicable to pedestrians.

**10.06.030 ~~Bicycles and other nonmotorized r~~Recreational transportation on sidewalks.**

A. Riding on Sidewalks. Bicycles, electric bicycles, roller skates, roller blades, nonmotorized and motorized scooters, nonmotorized skateboards, electrically motorized boards, electric personal assistive mobility devices, and other similar nonmotorized and motorized forms of transportation may be ridden or operated on all sidewalks within the eCity at a speed not to exceed five miles per hour except as otherwise prohibited by this chapter. Motorized vehicles; ~~bicycles, scooters and other forms of motorized transportation~~ shall not be permitted to be ridden upon sidewalks.

B. Nonmotorized and motorized recreational transportation, as provided in subsection (A) of this section, shall be operated at a speed that is reasonable or prudent, having due regard for weather, visibility, pedestrian and vehicular traffic, and the surface and width of the sidewalk, and in no event at a speed that endangers the safety of any person or property.

A.C. Prohibitions. Notwithstanding subsection (A) of this section, bicycles, electric bicycles, roller skates, roller blades, nonmotorized and motorized scooters, nonmotorized skateboards, electrically motorized boards, electric personal assistive mobility devices, and other similar nonmotorized and motorized forms of transportation shall not be ridden or operated upon the following:

1. Sidewalks within a commercial or business center or complex;
2. Sidewalks adjacent to any public school building when school is in session;
3. Sidewalks and parking lots adjacent to or within any community or recreation center when in use;
4. Sidewalks adjacent to a church during services;
5. Parking lots of any property owned or operated by the eCity; or
6. Any pedestrian overcrossing or other sidewalk where prohibited by posted signs.

B.D. Public Works Director to Designate Additional Prohibitions. Notwithstanding subsection (A) of this section, The public works director, or his or her

designee, may designate and declare certain portions of sidewalk where the riding or operation of bicycles, electric bicycles, roller skates, roller blades, nonmotorized and motorized scooters, nonmotorized skateboards, electrically motorized boards, electric personal assistive mobility devices, and other similar nonmotorized and motorized forms of transportation is prohibited.

E. Public Works Director to Post Signs. The public works director, or his or her designee, shall erect and maintain signs adjacent to sidewalks designating limits and prohibitions authorized by this chapter.

G.F. No Effect on ADA Power-Driven Mobility Devices. Notwithstanding anything to the contrary, wheelchairs and other power-driven mobility devices used as a mobility aid by a person with a disability may be ridden or operated on all sidewalks in the City at the speed of pedestrian traffic and in a manner which is safe for the user and other pedestrians.

G. Yielding Right-of-Way. Whenever any person is riding a bicycle, electric bicycle, roller skates, roller blades, a nonmotorized or motorized scooter, a nonmotorized skateboard, electrically motorized board, electric personal assistive mobility devices, or other similar nonmotorized or motorized form of transportation, such person shall yield right-of-way to any and all pedestrians. A person riding or operating any such form of transportation shall further yield to all traffic upon entering a roadway or driveway ~~from a sidewalk.~~

#### 10.06.040 **Skateboards, roller skates and similar pedestrian traffic.**

A. No person shall ride a nonmotorized skateboard, ~~motorized skateboard,~~ electric personal assistive mobility devices, ~~as defined in California Vehicle Code Section 313 (e.g., Segways),~~ roller skates, roller blades, nonmotorized scooter, or other conveyance propelled by human power other than a bicycle, or cause or permit the same to roll or coast on the roadway of any street in the city.

B. ~~B.~~The provisions of subsection (A) of this section shall not apply to cul-de-sacs where the length of the cul-de-sac is 500 feet or less.

#### 10.06.050 **Pedestrian movements.**

The public works director, or his or her designee, is hereby authorized to place and maintain signs or markings to prohibit or to restrict pedestrian crossings at certain intersections.”

### **CODE AMENDMENT TO ADD DEFINITIONS TO SECTION 11.10.020**

#### **“11.10.20 Definitions.**

The following definitions apply to the use of these terms for purposes of this chapter:

“Electric bicycle” means an electric bicycle equipped with both fully operable pedals and an electric motor, as further defined by Vehicle Code section 312.5, as it may be amended from time to time.

“Electrically motorized board” means any wheeled device that has a floorboard designed to be stood upon when riding, is designed to transport only one person, and has an electric propulsion system, as further defined by Vehicle Code section 313.5, as it may be amended from time to time.

“Electric personal assistive mobility device” means a self-balancing, nontandem two-wheeled device that can turn in place, designed to transport only one person, with an electric propulsion system, as further defined by Vehicle Code section 313, as may be amended from time to time.

“Motorized scooter” means any two-wheeled device that has handlebars, has either a floorboard that is designed to be stood upon when riding or a seat and footrests in place of the floorboard, and is powered by and electric motor, as further defined by Vehicle Code section 407.5, as may be amended from time to time.”

**CODE AMENDMENT TO SECTION 11.10.140, SKATEBOARDS, ROLLER SKATES, AND IN-LINE SKATES**

**“11.10.140 Skateboards, roller skates and in-line skates.**

A. Skateboards. No person shall ride a skateboard, including but not limited to scooters and mountain skateboards, or similar conveyances propelled by human power, other than a bicycle, or cause or permit same to roll or coast in any designated park or recreational area except in areas designated and under conditions established by the director or, in the case of a private park, the consenting owner.

A-B. Electrically motorized board. No person shall ride an electrically motorized board, or similar conveyances propelled by motor, including, without limitation, a motorized scooter or an electric personal assistive mobility device, or cause or permit same to roll or coast in any designated park or recreational area except in areas designated and under conditions established by the director or, in the case of a private park, the consenting owner.

C. Roller Skates and In-Line Skates. No person shall ride roller skates, in-line skates, or similar conveyances propelled by human power, other than a bicycle, or cause or permit it to roll or coast in any designated park or recreational area where the director or, in the case of a private park, the consenting owner, has posted signs to prohibit such activity. No person shall ride roller skates, in-line skates, or similar conveyances on any

unpaved trail in any designated park or recreational area except in areas designated and under conditions established by the director or, in the case of a private park, the consenting owner.

~~B-D.~~ [No Effect on ADA Power-Driven Mobility Devices. Notwithstanding anything to the contrary, wheelchairs and other power-driven mobility devices used as a mobility aid by a person with a disability may be ridden or operated at the speed of pedestrian traffic and in a manner which is safe for the user and other individuals.](#)

## **CODE AMENDMENT TO SECTION 11.10.220 BICYCLES**

### **“11.10.220 Bicycles.**

- A. Designated Trails. No person shall operate a bicycle [or an electric bicycle](#) on a road or trail in any designated park or recreational area except upon roads or trails designated for bicycle [and/or electric bicycle](#) traffic by the director or, in the case of a private park, the consenting owner.
- B. Unsafe Operation. No person shall operate a bicycle [or an electric bicycle](#) in any designated park or recreational area in any manner that endangers any person or animal or at a speed that is greater than is reasonable or prudent, having due regard for other users and the surface, width, and grade of the road or trail, and in no event in excess of 10 miles per hour, unless a greater speed is posted.
- C. Bicycle [and Electric Bicycle](#) Parking. No person shall leave a bicycle [or electric bicycle](#) lying on its side on a road or trail in any designated park or recreational area in such a way to obstruct pedestrian, equestrian, or vehicle traffic.
- ~~D.~~ Helmets. No person under 18 years of age shall operate a bicycle [or an electric bicycle](#), or ride upon a bicycle [or an electric bicycle](#) as a passenger on any road, bikeway or trail in any designated park or recreational area unless that person is wearing a properly fitted and fastened bicycle helmet. The bicycle helmet must meet the standards set forth in California Vehicle Code Section 21212.
- ~~D-E.~~ [No Effect on ADA Power-Driven Mobility Devices. Notwithstanding anything to the contrary, wheelchairs and other power-driven mobility devices used as a mobility aid by a person with a disability may be ridden or operated at the speed of pedestrian traffic and in a manner which is safe for the user and other individuals.](#)