City of Santa Paula

City Council

MAYOR LESLIE CORNEJO
VICE MAYOR PEDRO A. CHAVEZ
COUNCILMEMBER JENNY CROSSWHITE
COUNCILMEMBER CARLOS JUAREZ
COUNCILMEMBER ANDY SOBEL

CITY COUNCIL REGULAR MEETING OF THE
SANTA PAULA CITY COUNCIL

WEDNESDAY, SEPTEMBER 4, 2024

6:30 PM - City Council Regular Meeting

SANTA PAULA CITY HALL
970 VENTURA STREET
SANTA PAULA, CA 93060

JULIE LATSHAW, CITY CLERK
DAN SINGER, CITY MANAGER
MONICA CASTILLO, CITY ATTORNEY

CITY COUNCIL REGULAR MEETING

You are invited to participate in all Regular City Council meetings. Agendas are posted in the front of Santa Paula City Hall, 970 Ventura Street, Santa Paula, 72 hours in advance of the scheduled meetings. The City Council's regular meetings start at 6:30 p.m. the first and third Wednesday of each month in the City Hall Council Chambers located at 970 Ventura Street in Santa Paula. Special and Closed Sessions vary by date and time.

HOW TO PARTICIPATE IN PERSON DURING THE MEETING: If you wish to speak at a City Council meeting, please fill out a ***Public Comment Form*** noting your name and address and submit the form to the City Clerk. Include the Agenda item number, when appropriate. ***Public comments are limited to 3 minutes.***

1. ***Items Not on the Agenda*:** If you wish to discuss an item which is not scheduled on the Agenda, you may address the City Council during *Public Comment*. Please realize that due to the limitations placed on the City Council by provisions of the *California Government Code*, the City Council ordinarily cannot take action on any item that is not on the agenda. Because of these restrictions, expect that matters that you identify during public comment may be referred to staff or considered on a future agenda.
2. ***Agenda Items:*** Items being considered by the City Council may appear on the Consent Calendar, as an Action Item, or as a Public Hearing. Public comments on each type of item are handled differently, as explained below:
    a. For items appearing on the Consent Calendar, please submit a Public Comment Form before the Council takes action on the Consent Calendar. Items that receive a Public Comment Form may be pulled from the Consent Calendar by the Mayor and discussed separately by the City Council.
    b. For items appearing as an Action Item, the Mayor will announce the Agenda item and request the staff report, the staff member responsible will give a brief summary of the report; the City Council will have an opportunity to ask questions of staff; members of the public will be given an opportunity to comment on the item and ask additional questions (all members of the public should speak directly into the microphone at the speaker's platform); and the City Council will discuss the item and then take appropriate action.
    c. For items on which a Public Hearing is scheduled, the Mayor will open the public hearing and receive the staff report; members of the public will be given an opportunity to comment on the item and ask additional questions (all members of the public should speak directly into the microphone at the speaker's platform); the City Council will discuss the item; and the Mayor will close the public hearing after City Council action.

HOW TO PARTICIPATE BEFORE THE MEETING: Members of the public are encouraged to submit email correspondence on any agenda item by sending an email to cityclerk@spcity.org. All public correspondence received by 3:00 p.m. (PT) on the meeting date will be provided to the legislative body before the meeting. Public Comments received after 3:00 p.m. will be provided to the legislative body the next day.

Your Participation in this meeting is in the public domain; meetings are cablecast; minutes of this meeting will reflect your participation in this meeting and are posted on the city's website.

PLEASE NOTE: *Be advised that if you bring a legal challenge to an action, you may be limited to raising only those issues you or someone else raised at the meeting described in this Agenda, or in written correspondence delivered to the City Council at or before the meeting. Any action is subject to the ninety-day time period set forth in Code of Civil Procedure § 1094.6.*

*In compliance with the **Americans with Disabilities Act**, if you need special assistance to participate in this meeting, please contact the City Clerk at (805) 933-4208. Notification 48 hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35, 102-35.104 ADA Title II). Written materials distributed to the City Council within 72 hours of the City Council meeting are available for public inspection immediately upon distribution in the City Clerk's office.*

HOW TO VIEW ON YOUR TELEVISION, COMPUTER, OR MOBILE DEVICE: Watch from home live on the local Channel 10, or view the live feed on the city website at the following link: https://www.spcity.org/523/Public-Meeting-Agendas
NOTE: Special and Closed Sessions are not recorded and not available on Channel 10 or live feed on the city website.

REGULAR MATTERS - COUNCIL CHAMBERS

1. CALL TO ORDER
REMINDER: in order to minimize distractions during public meetings, all personal communication devices should be turned off or put in a non-audible mode.

2. INVOCATION

3. FLAG SALUTE

4. ROLL CALL

5. PUBLIC COMMENT
At this time, members of the public may comment on any item not appearing on the agenda that is within the subject-matter jurisdiction of the City Council. A Public Comment Form must be submitted to the City Clerk prior to the beginning of the Public Comment period in order to be recognized to speak. Individuals submitting Public Comment Forms after the beginning of the Public Comment period will not be allowed to speak at this time, but may be recognized to speak by the Mayor at the conclusion of the meeting. Individual Councilmembers may briefly respond to Public Comments or ask questions for clarification. The City Council may direct staff to report to the City Council on the item at a later meeting. For items appearing on the Agenda, the public will be invited to make comments at the time the item comes up for City Council consideration. If a member of the public wishes to address a Consent Calendar item, please submit a Public Comment Form for that item. It may then be discussed separately by the Council, and the public will be invited to make comments at that time. At all times, please use the microphone and write your name and address on the Public Comment Form provided.

6. PRESENTATIONS

6.A SPIRIT OF SANTA PAULA ANNUAL REPORT

7. CITY COUNCIL REPORTS

8. CITY MANAGER REPORTS

9. CONSENT CALENDAR

Background information has been provided to the City Council on all matters listed under the Consent Calendar and these items are considered to be routine by the City Council and are normally approved by one motion. If discussion is requested by a Councilmember on any item, or a member of the public wishes to comment on an item, that item may be removed from the Consent Calendar for separate action.

9.A **SURPLUS VEHICLES AND EQUIPMENT**

RECOMMENDATION:

Staff recommends that the City Council:

1. Authorize the designation and sale of surplus vehicles and equipment in accordance with the City's Memorandum of Understanding with Ventura County General Services Agency.

Prepared by: Darin Howard, Fleet Supervisor

9.B **AMENDMENTS TO THE CITY'S PERSONNEL RULES AND REGULATIONS**

RECOMMENDATION:

It is recommended that the City Council:

(1) Adopt Resolution No. 7536 amending the City's Personnel Rules and Regulations.

9.C **TERMINATION OF LOCAL EMERGENCY DELARED IN RESPONSE TO BREACH OF CITY'S MAIN WATER RESERVOIR**

RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt Resolution No. 7539 terminating the local emergency declared in response to a breach of the City's main water reservoir.

9.D **HARVEST AT LIMONEIRA WELL 7 AND WELL 8 OFFSITE IMPROVEMENT AGREEMENTS**

RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt Resolution No. 7538 Approving Well 7 and Well 8 Offsite Improvement Agreements.

9.E **ENGEO PROFESSIONAL SERVICES AGREEMENT**

RECOMMENDATION:

Staff recommends that the City Council convene as the GHAD Board to:

1. Authorize the Chair to execute a One-Year Professional Services Agreement with ENGEO Incorporated to provide GHAD Manager services for the Santa Paula GHAD in a form approved by the City Attorney, in the amount of $39,969.00 for Fiscal Year 2024-2025 based on the City's approved two-year budget.

Prepared by: Andrew Sumanting, Administrative Analyst I

10. PUBLIC HEARING

- Verification of posting notice by City Clerk
- Declaration of conflicts (if any)
- Declaration of ex parte contacts (if any)
- Open public hearing
- Staff presentation
- Public comments
- Close public hearing
- Discussion and action

10.A ESTABLISHING UNDERGROUND UTILITY DISTRICT NO. 1 IN CONJUNCTION WITH SOUTHERN CALIFORNIA EDISON 'RULE 20A' PROGRAM

RECOMMENDATION:

Staff recommends that the City Council:

1. Conduct a public hearing to consider adoption of Resolution No. 7532 establishing Underground Utility District No. 1 in conjunction with the Southern California Edison “Rule 20A” program.

Prepared by: Tatiana Arnaout, Deputy City Engineer, m6 Consulting, Inc.

11. ACTION ITEMS

11.A 2023-2025 CITY COUNCIL STRATEGIC PLAN PROGRESS REPORT

RECOMMENDATION:

Staff recommends City Council:

1. Receive a presentation and file a progress report on the Council's Strategic Plan; and
2. Direct staff to take additional or related action that may be desirable.

Presented by: Jonathan Royas, Deputy City Manager

12. ITEMS FOR FUTURE AGENDAS

12.A FUTURE AGENDA ITEMS

RECOMMENDATION:

Staff recommends City Council review future agenda items.

13. CLOSED SESSION

14. ADJOURNMENT

State of California)-

County of Ventura)- ss

City of Santa Paula)-

I declare under penalty of perjury that I posted this City Council Agenda on the bulletin board near the front door of City Hall, 970 Ventura Street, Santa Paula, California.

On_____at_____Signed:_____

Julie Latshaw

City Clerk

CITY OF SANTA PAULA
MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Clete Saunier, Public Works Director

Subject: SURPLUS VEHICLES AND EQUIPMENT

Date: September 4, 2024

Agenda Item: 9.A

RECOMMENDATION:

Staff recommends that the City Council:

1. Authorize the designation and sale of surplus vehicles and equipment in accordance with the City's Memorandum of Understanding with Ventura County General Services Agency.

Prepared by: Darin Howard, Fleet Supervisor

BACKGROUND:

The City has used a variety of methods to dispose of surplus property including City sponsored auctions, sealed bid process and third-party auctions. Current technology allows the use of online auction websites, such as www.publicsurplus.com ("Public Surplus") that attracts nationwide buyers and specializes in government surplus sales. This website is the one utilized by Ventura County General Services Agency (VCGSA). On September 5, 2018, the City entered into a Memorandum of Understanding (MOU) with Ventura County General Services Agency for the sale of the City's surplus vehicles and equipment on Public Surplus.

ANALYSIS:

Publicsurplus.com marketing procedures attract a large volume of buyers, which enables the City to increase the amount of revenue generated by the sale of its surplus property. This process is ultimately the best venue to utilize for the sale of City surplus property while quickly yielding the highest revenue.

Staff recommends the following vehicles and equipment to be designated as surplus property and sold on publicsurplus.com in accordance with the City's MOU with VCGSA:

Public Works Department
1995 Ford Explorer
1993 Case Skid Steer Loader
2002 Alkota Press. Washer W/ Recovery
2016 Total Screen Scrubber Advance SC6500 45C Ecoflex

1985 Case W-251 Roller
1991 Ford F250 ¾ Ton Pickup W/ Toolbox
1989 Ford F800 Dump Truck
1999 Ford F350 Super Duty Service Body W/ Crane

Police Department
2010 Dodge Charger BLK/WHT
2008 Chevrolet Colorado / Animal Transport
2015 Chevrolet Tahoe K9
2004 Ford CSO Crown Victoria
2008 Ford Expedition

Parks & Recreation
2003 Hustler 4600 Mower w/ Range Wings

These vehicles reached the end of their service life based on years in service, high mileage, and/or high repair frequency and related costs. A full description of each vehicle and related equipment recommended for surplus sale is provided in Exhibit A.

STRATEGIC PLAN:

The approval of this agenda item does not directly address the strategic goals within the City's adopted Strategic Plan.

FISCAL IMPACTS:

A portion of the fees charged by VCGSA are used to clean and market the vehicles and equipment prior to being auctioned on publicsurplus.com This saves critical staff resources traditionally needed to clean and prepare the equipment prior to sale. VCGSA charges a $500.00 flat fee for on-road off-road (rolling stock) sales and charges a 25% fee against the sale price for all other liquidation assets. Public Surplus may charge a premium not to exceed 10% to the individual or winning bidder. The buyer's premium is excluded from the gross proceeds and is retained by Public Surplus. All net revenue received from the sale of surplus fleet vehicles and equipment will be credited to the original funds that were used to purchase them.

OPTIONS:

The Council has the following available alternative options to Staff's recommendations:

1. Do not authorize the designation and sale of surplus vehicles and equipment in accordance with the City's Memorandum of Understanding with Ventura County General Services Agency and request staff use an alternative means of selling surplus property. This action would delay the receipt of additional revenue needed for the purchase of critical replacement equipment.

ATTACHMENTS:

Exhibit A - Surplus Vehicle List FY 2024-2025.pdf

EXHIBIT A

Surplus Vehicle List FY 2024-2025

Surplus Vehicle List FY 2024-2025

UNIT #	MAKE	MODEL	YEAR	VIN / SERIAL NUMBER	LLC NO.	FUND./DEPT/PRGM.	DESCRIPTION
201	FORD	EXPLORER	1995	1FMDU34X1SZB1617	E372632	620-5-7501. GEN ENGR/ADMIN	Replaced by Unit # 252 - 2022 Escape Hybrid
232	CASE	SKID STEER LOADER	1993	JAF012236	-	280-5-5022. STREET MAINT	Compliance - Replaced by Unit # 280 - 2023 John Deere Skid Steer
242	ALKOTA	PRESS. WASHER W/ RECOVERY	2002	1A9BU23232A520135	1140461	206-5-5026. STORMWATER MAINT	Not used
246	TOTAL CLEAN SCRUBBER	ADVANCE SC6500 45C ECOFLEX	2016	1000060461	-	206-5-5026. STORMWATER MAINT	Not used
251	CASE	W-251 ROLLER	1985	840697515	-	280-5-5022. STREET MAINT	Compliance
262	HUSTLER 4600	MOWER W/ RANGE WINGS	2003	3054009	-	100-5-1532. GROUNDS MAINT	Compliance- Replace by Unit # 139 2021 Mean Green electric mower.
269	FORD F250	3/4 TON PICKUP W/ TOOLBOX	1991	1FTHF25H1MLA80442	E372620	620-5-5072. SYSTEM MAINT	Replaced by Unit # 288 – Tractor Fuel vehicle.
273	FORD F800	DUMP TRUCK	1989	1FDPK84P4KVA34443	E372628	620-5-5072. SYSTEM MAINT	Compliance
290	FORD 350 SUPER DUTY	SERVICE BODY W/ CRANE	1999	1FDWX36F1XEE78195	1039766	620-5-5072. SYSTEM MAINT	Replaced by Unit 241 - 2023 Ford F-350
458	DODGE	CHARGER BLK/WHT	2010	2B3AA4CT9AH239544	1343922	100-5-4502. PATROL	Surplus police vehicle
420	CHEVROLET	COLORADO / ANIMAL TRANSPORT	2008	1GBDS14E988205096	1280511	100-5-4507. ANIMAL REGULATION	Replaced by Unit 597
422	CHEVROLET	TAHOE K9	2015	1GNLC2EC0FR712197	1485723	100-5-4502. PATROL	Replaced with Unit 471
447	FORD CSO	CROWN VICTORIA	2004	2FAFP71W74X108579	1140511	100-5-4502. PATROL	Surplus police vehicle
453	FORD	EXPEDITION	2008	1FMFU155X8LA63718	1280507	100-5-4502. PATROL	Replaced with Unit 423 - Backup Police K-9

CITY OF SANTA PAULA
MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Lorena Alvarez, Human Resources Manager

Subject: AMENDMENTS TO THE CITY'S PERSONNEL RULES AND REGULATIONS

Date: September 4, 2024

Agenda Item: 9.B

RECOMMENDATION:

It is recommended that the City Council:

(1) Adopt Resolution No. 7536 amending the City's Personnel Rules and Regulations.

BACKGROUND:

On October 4, 1965, the City Council adopted Resolution No. 1967 establishing Personnel Rules and Regulations (Rules) for the City of Santa Paula. As with other policies, the Rules need to be updated periodically to address changes in the law, best practices and City operations. Staff began working on a comprehensive review and update of the Rules in 2020 and has since brought amendments to the Council periodically to reflect changes in law, benefit provisions and the need to modernize policies and procedures, as other organizational priorities have allowed.

Staff continues to monitor as laws and regulations change, and will continue to work on revisions to additional amendments to the Rules as time permits, or when potential risks are identified or opportunities for improvement in practices arise to stay current with the changing needs of the City and its operations.

ANALYSIS:

Staff is proposing revisions to the Personnel Rules and Regulations to reflect changes in the law and update employee benefits, as summarized below.

The amendment to Personnel Rule 2.5, Drug and Alcohol Policy, brings the City into compliance with Assembly Bill (AB) 2188. AB 2188 became effective January 1, 2024, making it unlawful for an employer to discriminate against a person in hiring, termination or any other condition of employment, or otherwise penalize a person, if the discrimination is based upon a person's use of cannabis off the job and away from the workplace. Although the use of cannabis off the job is legal under most circumstances, there are several classifications that are exempt from AB 2188 provisions; exempt classifications include those employees that are in the building and construction type positions, positions requiring federal background

investigations or clearances, or positions requiring that the employee be tested for controlled substances as a condition of employment, including those required under the Department of Transportation to submit Random Drug Testing.

Personnel Rule 6.1 and Personnel Rule 7.2 has been amended to reflect the additional benefits that City Council Resolution No. 7292 extended to part-time employees that are assigned to work more than thirty-two hours, but less than forty hours per week on a regularly scheduled basis. The adoption of Resolution No. 7292 authorized cafeteria benefits, as well as vacation, holiday and sick leave accruals to eligible part-time employees on a prorated basis.

Personnel Rule 7.7, Medical Leave, has been amended to include the Military Family Leave provision of the Family and Medical Leave Act. The amendment provides guidelines to employees for qualifying military exigencies and military caregiver leave.

STRATEGIC PLAN:

This amendment supports the currently adopted Strategic Plan in achieving the following goals:

G. Operational Excellence

Objective 4: Updated the City Personnel Policies and Procedures to comply with statues.

FISCAL IMPACTS:

The adoption of the proposed resolution, which will revise the City's Personnel Rules and Regulations, will not have any new fiscal impact.

OPTIONS:

Council may approve these recommendations as presented or could alter or amend the recommendations.
Council could also deny these amendments and provide alternative direction to staff, but doing so could leave the City out of compliance with new employment laws.

ATTACHMENTS:

Resolution No. 7536.pdf
Redlined.pdf

RESOLUTION NO. 7536

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA PAULA AMENDING THE PERSONNEL RULES AND REGULATIONS

The City Council of the City of Santa Paula does resolve as follows:

SECTION 1: The City of Santa Paula adopted Resolution No. 1967, a Resolution to establish the City of Santa Paula Personnel Rules and Regulations, on October 4, 1965.

SECTION 2: The Personnel Rules and Regulations need to be periodically updated to address changes in law, best practices, and City operations.

SECTION 3: Staff has revised the Personnel Rules and Regulations, and amended the Drug and Alcohol Policy, as attached to this resolution as Exhibit A.

SECTION 4: Staff has revised the Personnel Rules and Regulations, and amended the Eligibility for Benefits Policy, as attached to this resolution as Exhibit B.

SECTION 5: Staff has revised the Personnel Rules and Regulations, and amended the Holiday Leave Policy, as attached to this resolution as Exhibit C.

SECTION 6: Staff has revised the Personnel Rules and Regulations, and amended the Medical Leave Policy, as attached to this resolution as Exhibit D.

SECTION 7: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this 4TH day of September 2024.

_____
Leslie Cornejo, Mayor

ATTEST:

_____
Julie Latshaw, City Clerk

APPROVED AS TO FORM:

Monica Castillo, City Attorney

Dan Singer, City Manager

EXHIBIT “A”

2.5 Drug and Alcohol Policy

PURPOSE

To establish a policy prohibiting workplace use of drugs or alcohol by employees of the City of Santa Paula and define a procedure for dealing with workplace abuse of drugs or alcohol.

STATEMENT OF POLICY

There is an obligation to ensure a safe and healthy work environment and to perform work for the public safely, effectively, and efficiently. This policy is intended to assure that the workplace is free of employees whose job performance may be impaired by the use of drugs or alcohol.

An ongoing awareness program shall be conducted to inform employees about (1) the danger of drugs and alcohol in the workplace; (2) the City's policy of maintaining a workplace free of substance abuse; (3) available help for those with substance abuse problems; and (4) penalties for violation of this policy.

The performance of any of the prohibited acts outlined in this policy will not be tolerated. When an employee's ability to perform their job is impaired by drugs or alcohol, it is the responsibility of the Supervisor to remove such employee from the work environment for the safety of the employees, fellow employees, and the public.

The City recognizes that drug and alcohol abuse may be considered a treatable illness, and to the extent possible, the response to drug or alcohol abuse may be treatment or rehabilitation. Employees who suspect they may have a drug or alcohol abuse problem are encouraged to seek assistance prior to engaging in behavior that may lead to disciplinary action.

Drug and alcohol testing will be conducted to assure compliance with this policy, as well as to comply with the Federal Drug Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991.

It is the responsibility of the employee to understand this Policy, and to ask for an explanation of this policy from his/her Supervisor, if necessary.

COMPLIANCE WITH THIS POLICY IS A CONDITION OF EMPLOYMENT.

PROCEDURE

A. DEFINITIONS

The following definitions are applicable to the enforcement of this policy:

Accident: An occurrence involving a City employee which results in any of the following: (1) death of a person; (2) bodily injury (for example, loss of consciousness, concussion, bone fracture or break, loss or impairment of function of any bodily organ, wound, or other disfigurement) to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the occurrence; or (3) damage to a vehicle that is extensive enough that the vehicle must be towed from the scene of the accident. This definition does not include damage to a vehicle that can be repaired at the scene, such as a flat tire or broken headlight. This definition also excludes willful or deliberate acts by a third party that results in injury to the employee, the third party, or others, unless supervisory personnel reasonably suspect that there are employee alcohol or drug impairment issues that contributed to the altercation.

Alcohol Concentration: The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

Alcohol Use: The consumption of any beverage or mixture, including any medication, containing alcohol.

Applicant: Any person applying for employment with the City who has been extended a conditional offer of employment.

B.A.T.: A trained breath alcohol technician who operates the National Traffic Safety Administration-approved evidential breath testing device.

Evidential Breath Testing Device (EBT): A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL), which produces a printout.

Licensed Medical Practitioner: A person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, and Local laws and regulations to prescribe controlled substances and other drugs.

Negative Test: A test result which is reported to the City and indicates that there is insufficient or not enough controlled substances and/or alcohol present in a sample to generate a positive result; or the MRO determines that there was a legitimate medical use for the prohibited drug.

On-Duty Time: All of the time from the time a covered employee begins work or is required to be in readiness to work, until the time he/she is relieved from work and all responsibility for performing work. "On-Duty Time" also includes all time spent providing a urine specimen, including travel time to and from the collection site, in order to comply with testing requirements.

Performing a Safety Sensitive Function: Any period in which an employee is actually performing, ready to perform, or immediately available to perform any function that poses risks of injury to the employee, co-workers, or the public.

Positive Test: A confirmed test result for either alcohol or drugs that is at or above the permissible limits under the law.

Program Administrator: Personnel Officer or designated City Representative.

Prescription Drugs: Any drug or medication prescribed by a licensed physician for a medical condition which has been legally obtained and is taken for the purpose prescribed by the licensed physician.

Reasonable Suspicion: A belief based on objective and articulable facts sufficient to lead a reasonable and trained Supervisor to suspect that an employee is under the influence of a controlled substance and/or alcohol. For example, any of the following, alone or in combination, may constitute reasonable suspicion that an employee may have a prohibited presence of a drug and/or alcohol in his/her system:

- Slurred speech
- Alcohol odor on breath
- Unsteady walking or movement
- Physical impairment (*e.g.,* eye dilation, shaking, or erratic movement)
- An accident
- A physical altercation
- A verbal altercation
- Possession of a drug and/or alcohol
- Information from a reliable person with personal knowledge of an employee's recent drug and/or alcohol use
- Excitement or confusion
- Mood swings
- Disorientation or job impairment (*I.e.,* inability to perform the job in a routine manner)
- Glassy eyes
- Drowsiness
- Euphoria
- Irritability
- Aggressiveness

Refusal: A failure to comply with the testing process including an inability to provide an adequate urine specimen without a valid medical explanation; a verbal refusal, obstructive behavior, or physical absence which precludes completion of the test; or leaving an accident scene without a valid reason before the test has been conducted.

Screening Test: In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his or her system. In drug testing, an immunoassay screen to eliminate "negative" urine specimens from further consideration.

Substance Abuse Professional (SAP): A licensed physician (medical doctor or osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances –related disorders.

Substantial Damage: Damage, which precludes departure of a motor vehicle from the scene of the accidents in its usual manner, after simple repairs. "Substantial damage" includes damage to motor vehicles that could be driven, but would be further damage by doing so, but it does not include damage which can be repaired at the scene without special tools, tire disablement without other damages, headlight or taillight damage, damage to turn signals, horn or windshields wipers.

B. EMPLOYEES SUBJECT TO THE DEPARTMENT OF TRANSPORTATION REGULATIONS

1. APPLICABILITY

Sub-section (B) of Policy 2.5 applies to all City employees, regardless of their organizational unit, whose employment is subject to Department of Transportation (DOT) regulations; who are subject to federal background checks or security clearance; who are in the building and construction trades; or whose employment is otherwise subject to drug testing under federal law, when they are on City property or performing City-related business.

City positions which are subject to sub-section (B) of Policy 2.5 may include, but are not limited to:

- Facility Maintenance Worker I/II
- Facility Attendant
- Custodian
- Building Inspector I/II
- Code Enforcement Inspector
- Associate Engineer
- Permit Technician
- Water Operations Superintendent
- Street Maintenance Leadworker
- Maintenance Worker I/II
- Fleet Supervisor
- Mechanic II
- Mechanic Helper
- Water System Operator I/II/III/IV

The exclusion of a specific job position from the above list does not waive the City's ability to conduct testing of an employee in a position which is not enumerated in the above list. The City will conduct testing for employees pursuant to this sub-section as required by all applicable laws.

In addition, random testing procedures (Section (B)(8)(b) below) will apply to specific positions listed there, even if they are not subject to the DOT regulations.

Each employee will be provided a copy of this Policy and will be required to review, abide by, and sign a statement agreeing that they have received and read a copy of this Policy, and that their questions have been satisfactorily answered by their Supervisor.

2. DEFINITIONS

Controlled Substance: Any drug that is classified by the Drug Enforcement Administration into the five schedules or classes on the basis of their potential for abuse,

accepted use, and accepted safety under mediation supervision. The presence of a drug on any of these schedules identifies that it is "controlled" and determines the nature of the supervisory control that must be exercised. "Controlled substance" includes, but is not limited to: narcotics, depressants, stimulants, hallucinogens, and marijuana.

Drugs: See Controlled Substance.

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

3. PROHIBITED ACTS

The following acts are prohibited and may result in discipline, up to and including discharge:

a. Reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions while having an alcohol concentration level of 0.01 or greater;

b. Reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions within four (4) hours of consuming alcohol;

c. Reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions while possessing alcohol;

d. Consuming alcohol while reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions;

e. Reporting for duty, remaining on duty, or performing on-duty functions when under the influence of, using or possessing any drugs, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate vehicles or equipment or perform their job duties;

f. Testing positive for drug use while reporting for duty, remaining on duty, or performing on-duty functions;

g. Refusing to submit to any alcohol or drug test required by this policy. An employee who refuses to submit to a required drug or alcohol test will be treated in the same manner as an employee who receives a Positive Test;

h. Using alcohol or drugs within eight (8) hours after an incident or until tested for the presence of drugs or alcohol in the employee's system. If a Supervisor releases the employee from the scene before eight (8) hours after the incident or the employee is tested, the Supervisor must remind

the employee of the prohibition from using alcohol or drugs within eight (8) hours after an accident or until tested;

i. The possession, transportation, distribution, receipt, sale, purchase, or arranging for the sale, purchase, or distribution of drugs (including marijuana or cannabis) or alcohol, including medicines containing alcohol (prescription or over-the-counter), while on duty, unless, with respect to medicines, the packaging seal is unbroken, or a competent physician has approved on-duty use. Limited exceptions to this paragraph may be approved, on a case-by-case basis, based on direction from a Supervisor, such as transportation of evidence, police operations, or clean-up of Community Center activities.

j. Failure to report to Supervisor any therapeutic drug use that an employee has been advised by a competent physician could interfere with the performance of their job duties.

k. Inappropriate use of prescribed drugs or use of prescribed drugs in a manner inconsistent with instruction from a Licensed Medical Practitioner.

l. Use of prescribed drugs which may cause significant impairment or create a safety hazard on the job without reasonable prior notification to a supervisor.

Use of prescribed drugs in the manner for which they were prescribed does not violate the City's policy. Use of medically prescribed drugs or over-the-counter drugs is not a violation of this policy if directions are followed properly, no abuse is present, and the employee's ability to perform his/her job is not impaired. As set forth in this policy, an employee must notify his/her Supervisor before beginning work when taking prescription drugs or over-the-counter drugs that a qualified medical professional has advised may interfere with the safe and effective performance of the employee's duties.

4. REFUSAL TO CONSENT OR SUBMIT

Before a drug or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those City representatives with a need to know the test results. The consent form shall provide a space for employees and applicants to acknowledge that they have been notified of the City's drug testing policy.

An applicant who refuses to consent or submit to a drug test will be disqualified from employment with the City.

An employee's refusal to consent or submit to drug and alcohol testing in the circumstances outlined in this policy will be treated in the same manner as an employee who tested 0.01 or greater on an alcohol test or tested positively on a drug test. This may result in disciplinary action, up to and including termination.

Where there is a reasonable suspicion that the employee is under the influence of alcohol or drugs, the employee, Managers or Supervisor shall arrange for the employee to be transported home. The employee shall not transport himself/herself home.

A refusal to consent or submit to an alcohol or drug test required by this policy includes, but is not limited to:

a. A refusal to sign a consent form;

b. A refusal to provide a urine sample for a drug test;

c. An inability to provide a urine sample without a valid medical explanation;

d. A refusal to complete and sign the breath alcohol testing form or otherwise to cooperate with the testing process in a way that prevents the completion of the test;

e. A failure to provide an adequate amount of breath for an alcohol test without a valid medical explanation;

f. Tampering with or attempting to adulterate a urine specimen;

g. Interfering with or tampering with collection procedures;

h. Not reporting to the collection site in the time allotted by the Supervisor or Managers who directs the employee to be tested;

i. Leaving the scene of an accident without a valid reason or authorization from a Supervisor or Managers;

j. Consuming alcohol during the eight (8) hours immediately following an accident, unless the employee has been tested. If a Supervisor releases the employee from the scene before eight (8) hours after the accident or before the employee is tested, he/she is to remind the employee of the prohibition from using drugs or alcohol within eight (8) hours after the accident or until tested.

5. EFFECTS OF ALCOHOL AND DRUGS

Fact Sheets published by the Federal Transit Administration addressing the effects of alcohol and the various drugs which are tested for under this policy are available for review from Supervisors, Department Heads, or the Assistant Personnel Officer's office.

Also provided, as a supplement in the City's "Workplace Safety from Substance Abuse Policy Handbook" is a list of available methods of intervention when a drug or alcohol problem is suspected.

6. CONSEQUENCES FOR VIOLATION OF POLICY

An employee who is suspected of violating any of the prohibited acts listed in this policy may be immediately relieved of duties and placed on paid administrative leave until the results of the drug or alcohol test are confirmed. An employee who is found to have violated any of the prohibited acts listed in this policy may be immediately relieved of duties and placed on unpaid status after completion of any applicable administrative appeal process as outlined in the City's Personnel Policies and Procedures or the applicable MOU. Employees on unpaid status may use available sick leave or vacation time.

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination, according to the City's Personnel Policies and Procedures and any applicable MOU.

In addition to disciplinary action, an employee who receives a positive result from a drug or alcohol test also:

a. Shall be removed from performing on-duty functions for at least twenty-four (24) hours and will not be returned to his/her former position until the employee submits to a return-to-duty drug and/or alcohol test (depending on which test the employee failed) which indicates a Negative Test;

b. Shall submit to unannounced follow-up testing after he/she been returned to his/her on-duty functions;

c. May be subject to a "last chance" agreement and placed on an unpaid leave status in cases where immediate termination is not warranted

On a case-by-case basis, the City may allow an employee the chance to be examined by an SAP before evaluating further City actions. The City may advise an employee who engages in conduct prohibited under this Policy of the available resources for evaluation and treatment of drug/alcohol problems, including the names, addresses and telephone numbers of SAPs, counseling, treatment programs or other available services. The City will provide an SAP evaluation to assess employees with drug and/or alcohol problems.

Each employee who violates these rules must be evaluated to determine whether the employee needs assistance resolving problems associated with drug and/or alcohol, and if necessary, a referral for further treatment.

Before returning to duty, each employee must: (a) be evaluated again by an SAP to determine whether the employee has successfully complied with the treatment program prescribed following the initial evaluation; (b) undergo a drug and/or alcohol test to satisfy established acceptable results for return to duty; and, (c) be subject to a minimum of six (6) unannounced, follow-up

drug and/or alcohol tests over the following twelve (12) months.

The City will only provide an assessment by an SAP. The City has no obligation to provide or pay for further treatment.

7. EMPLOYEE REQUESTS ASSISTANCE

If an employee comes forward before the results of a positive drug or alcohol test are released and requests assistance for a drug or alcohol problem, the City will refer the employee to a SAP. Upon a determination by the SAP, the employee may be required to undergo treatment to cure his/her alcohol or drug abuse. The City is not required to pay for this treatment. The employee will be subject to all return-to-duty requirements outlined in this Policy.

8. TYPES OF TESTING

Except as provided otherwise in a Memorandum of Understanding (MOU), the City has discretion to test a current employee or an applicant in the following instances:

a. Pre-Employment Testing

- Applicants for a position are subject to pre-employment drug testing.
- All pre-employment physical examinations will include a urine drug screen. All such examinations will include at least a drug test for the controlled substances listed in Section Q below.
- All job announcements or other promotional material shall specify that drug screening shall be part of the physical examination.
- Only applicants who have been given a job offer conditioned upon passing a physical examination shall be given a drug-screening test.
- All applicants shall be given a copy of this policy at the time of their conditional offer of employment, and shall, as a prerequisite to employment, sign a consent form or forms and submit to pre-employment drug testing. Applicants who do not consent to such testing will not be considered for employment.
- Once the consent form or forms are signed, the pre-employment physical will be conducted and the urine specimen will be collected.
- Any applicant whose drug test does not indicate a verified negative result shall be contacted by the MRO for an interview. The

applicant will be given the opportunity at that time to have a split specimen reanalysis performed. If the reanalysis does not indicate a verified negative result, the applicant shall be given an opportunity by the MRO to withdraw his/her application for employment. If, under such circumstances, the applicant does not withdraw his/her application for employment, he/she shall be determined by the physician to be physically unfit for employment, and the determination shall be forwarded to the Personnel Officer who shall disqualify the applicant for employment.

- Results of any laboratory test will be sent to the Human Resources.
- If the test results are positive, the City will inform the individual that he/she has not passed the pre-employment physical. The City will not provide further test results information, even if requested, unless required by law.
- No applicant who has received a conditional job offer may begin work prior to employee health approval and will not be allowed to begin work at all if drug use is identified during the employment health screening process.
- Any applicant disqualified for employment pursuant to this policy may reapply after one (1) year from the date of disqualification.

b. **Random Selection and Testing**

Effective January 1, 1995, the Omnibus Transportation Employee Testing Act of 1991, requires that City employees be tested if they hold a Commercial Driver's License (CDL) (Class A or Class B) and drive a Commercial Motor Vehicle (CMV). In addition, the City requires all Safety Sensitive Employees be covered under this policy. Under this policy, all employees holding CDL's are subject to random selection for the purpose of alcohol and drug testing.

Random Pool #1

Those City employees required to hold a current, valid CDL under their individual job descriptions and/or City employees holding a valid CDL that could be subject operate a City owned Commercial Motor Vehicle.

Random Pool #2

Position Title	Department
Police Agent	Police
Police Detective	Police
Police Officer	Police
Police Recruit	Police
Police Sergeant	Police
Police Chief	Police
Police Commander	Police
Public Safety Dispatcher	Police

The following are guidelines for the random testing selection and testing procedures:

a. The number of drug tests conducted annually shall be specified by law.

b. Random alcohol tests shall equal or exceed twenty percent (20%) of employees.

c. Some employees may be tested more than once in a year, while others may not be tested at all, depending on the random selection.

d. An employee shall submit to alcohol or drug testing when selected by a random selection process used by the City.

e. To assure that the process is in fact random, all covered employees, whether or not they have been chosen for testing in the past, will remain in the pool of employees for each subsequent period. This procedure assures that the probability of any individual being selected each period is always

the same, whether or not the individual was selected in a previous period.

f. Covered employees shall be assigned numbers. Under a computerized system, a random number-generating program shall be loaded into a computer along with the names or identification numbers for the covered employees. This list of names will be checked regularly by a third party who is not a City employee for additions or deletions. The computer then generates a list of employees to be tested during the current testing period.

The selection process is repeated until the required numbers of employees are selected. Once the list of test subjects is generated, employees will not be informed that they have been selected until they must report for testing.

Advance notice of testing shall not be given. As in all types of tests, accurate records of the details of testing shall be confidentially maintained.

g. When an employee is selected for random drug testing, his/her Supervisor will ensure his/her duties are performed. The employee will receive a written notice indicating the time he/she is to report to the lab for testing.

h. A random alcohol test will be administered just prior to the employee performing an on-duty function, or just after the employee has stopped performing an on-duty function.

i. Cannabis testing of employees pursuant to this section will be conducted in accordance with all state and federal laws.

c. **Reasonable Suspicion Testing**

The City requires that an employee be tested, upon reasonable suspicion, for the use of drugs or alcohol when requested by the Supervisor.

The conduct creating the reasonable suspicion must be witnessed by at least one (1) Supervisor or some other competent person.

The documentation of the employee's conduct shall be prepared and signed by the witness(es) who made the determination of reasonable suspicion. Witnesses must document the conduct on the Observed Behavior- Reasonable Suspicion Record Form, available in the Assistant Personnel Officer's office, within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earlier. Other witnesses may be asked to sign the form, as well.

Reasonable Suspicion means that the witness, based on direct, contemporaneous observations of an employee, reasonably believes that the actions, appearance, speech, odors, or conduct of an on-duty employee are indicative of the use of drugs or alcohol. The witness must directly observe the behavior. Hearsay or second-hand information of an employee's behavior is not sufficient cause to require an employee to submit to a drug test. However, hearsay or second-hand information regarding non-behavioral evidence of drug or alcohol use or

possession, such as observing an employee possess or take drugs or possess or drink alcohol may be sufficient. The determination that a reasonable suspicion exists to require an employee to undergo an alcohol test must be based on short-term, specific, objective, contemporaneous, articulable facts concerning the behavior, appearance, speech or odors of the employee.

Alcohol testing may be performed only if the observations upon which reasonable suspicion are based are made during, just preceding or just after the period of the work day that the employee is required to be in compliance. An employee may be directed to undergo a reasonable suspicion alcohol test just before, during or just after performing on-duty functions.

If an alcohol test is not administered within two (2) hours following a reasonable suspicion determination, the Supervisor shall document the reasons for the delay. An alcohol test must be administered within eight (8) hours of a reasonable suspicion determination.

If an alcohol test indicates a positive result, the employee must not be permitted to perform any on-duty functions until twenty- four (24) hours have elapsed following the determination of reasonable suspicion.

Once a reasonable suspicion determination is made, the Supervisor shall assure that the employee under suspicion is evaluated, and when necessary, transported to a specimen collection site to provide a urine sample.

The employee tested for reasonable suspicion must be placed on paid administrative leave until the test results are received from the MRO.

d. **Post Accident Testing**

As soon as practicable after an accident, alcohol and/or drug tests may be administered. The following criteria will be applied in conducting a drug/alcohol test after an accident:

- The employee may be required to submit to a drug/alcohol test when required by his or her Supervisor or competent City authority.

- A post-accident, controlled drug test must be administered within thirty-two (32) hours following the accident. If the test is not administered, the Supervisor must record why the test was not administered.

- An employee subject to post-accident testing may not use alcohol prior to an alcohol test.

- Prior to operating a City vehicle, post-accident information, procedures and instruction shall be provided to every employee. Post-accident information, procedures, and instruction will also be posted in every City vehicle.

9. RETURN-TO-DUTY TESTING

Employees who violate the drug/alcohol policy and are accepted into return-to-duty and follow-up status will comply with the following:

a. Submit to a drug and alcohol test. The test must indicate a negative testing for drugs and an alcohol concentration of less than 0.02 before the employee is allowed to return to duty.

b. If previously identified by the SAP as needing assistance, the employee must return to the SAP for further assessment.

10. FOLLOW-UP TESTING

Employees who violate the drug/alcohol policy and are accepted into return-to-duty and follow-up status will comply with the following:

a. Upon returning to duty, the employee will be subject to a minimum of six (6) unannounced tests over the following twelve (12) months. The SAP can direct additional testing during this period or for an additional period up to a maximum of sixty (60) months from the date the employee returns to duty. The SAP can terminate the requirement for the follow-up testing in excess of minimum at any time, if the SAP determines that the testing is no longer necessary and is supported by the Supervisor.

b. Follow-up testing may include tests for other substances beyond the employee's initial positive test of alcohol and/or drug when the SAP has reason to suspect other drug or alcohol use during the follow-up period.

c. Follow-up testing shall be separate from participation in the random testing selection procedures.

11. PRE-TESTING PROCEDURES

a. Reasonable Suspicion and Post-Accident Testing Procedures

Upon determining that 1) reasonable suspicion exists to conduct a drug or alcohol test of an employee or 2) a post-accident test is necessary:

- The Supervisor should personally escort the employee to an office or other private area. The Supervisor should have another Supervisor or other reliable employee present as a witness, if possible.

- The Supervisor should explain to the employee the reasons for suspecting drug and/or alcohol policy violations and document the reasons for suspected drug and/or alcohol policy violations in writing.

- If the Supervisor reasonably suspects that the employee is under the influence of drugs and/or alcohol, or has consumed drugs and/or alcohol on City premises or during work duty, the Supervisor should advise the employee that the provisions of this policy may have been violated and that he/she is being requested to submit to a drug and/or alcohol test in accordance with this policy.

- The Supervisor shall have the employee complete a consent to testing form. The Supervisor shall advise the employee that refusal to sign the form or give a specimen at the testing facility will be treated as a refusal to obey and direct request and will constitute an admission that suspicion is reasonable and may be grounds for discipline, up to and including termination.

- The Supervisor shall then escort the employee, with another Supervisor or reliable employee, if possible, to the City-approved drug/alcohol testing site. The employee shall not be permitted to drive himself/herself to the testing facility.

b. **Pre-Employment; Random; Return to Duty; and Follow-Up Testing**

If the drug and/or alcohol test requested is a pre-employment or random test or is a return to duty or follow-up test, the employee should report to the testing facility as ordered and follow the procedures for testing set forth in Section Q, below.

12. CLASSES OF TESTING

a. **Drug Testing**

Drug testing shall be performed using the standards approved by the United States Department of Transportation (DOT). Unless otherwise specified in an applicable MOU, urine collection shall be conducted in accordance with the DOT's Urine Specimen Collection Guidelines pursuant to 49 CFR Part 40. Said guidelines are available for review by any employee. If an employee wishes to review the collection guidelines, he/she shall contact the Assistant Personnel Officer to make arrangements. Urine specimens shall be analyzed for any or all of the following drugs:

- Marijuana Metabolites
- Cocaine Metabolites
- Phencyclidine (PCP)
- Amphetamines
- Opiate metabolite
- Hydrocodone/hydromorphone
- Oxycodone/oxymorphone
- MDMA/MDA

The testing for use of drugs is a two-stage process. First, a screening test is

performed. If the screening test is positive for one or more drugs, then a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive drugs. The screening and confirmatory levels are as follows:

Type of Drug or Metabolite	Screening Test Concentration (ng/ml)	Confirmation Test Concentration (ng/ml)
(1) Marijuana metabolites	50	
(i) Delta-9-tetrahydrocanna-binol -9-carboxylic acid (THC)		15
(2) Cocaine metabolites (Benzoylecgonine)	150	100
(3) Phencyclidine (PCP)	25	25
(4) Amphetamines	500	250
(i) Amphetamine	500	250
(ii) Methamphetamine	500	250 Specimen must also contain amphetamine at a concentration of greater than or equal to 200 ng/ml.

Type of Drug or Metabolite	Screening Test Concentration (ng/ml)	Confirmation Test Concentration (ng/ml)
(5) Opiate metabolites	2000	
(i) Codeine	2000	2000
(ii) Morphine	2000	2000
(iii)6-acetylmorphine	10	10
(6) Hydrocodone/hydromorphone	300	100
(7) Oxycodone/oxymorphone	100	100
(9) MDMA/MDA	500	250

b. **Alcohol Testing**

Breath testing for alcohol use shall be performed using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration (NHTSA).

Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.01 alcohol concentration is considered a "negative" test.

If the alcohol concentration is 0.01 or greater, a confirmation test is conducted. The employee and the breath alcohol technician (BAT) conducting the breath test complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test results determine any actions taken.

C. NON-DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL POLICY

1. APPLICABILITY

Sub-section (C) of Policy 2.5 applies to all City employees, regardless of their organizational unit, except employees whose employment is subject to Department of Transportation (DOT) regulations, when they are on City property or performing City-related business.

Each employee will be provided a copy of this Policy and will be required to review, abide by, and sign a statement agreeing that they have received and read a copy of this Policy, and that their questions have been satisfactorily answered by their Supervisor.

2. DEFINITIONS

Controlled Substance: Any drug that is classified by the Drug Enforcement Administration into the five schedules or classes on the basis of their potential for abuse, accepted use, and accepted safety under mediation supervision. The presence of a drug on any of these schedules identifies that it is "controlled" and determines the nature of the supervisory control that must be exercised. "Controlled substance" includes, but is not limited to: narcotics, depressants, stimulants, and hallucinogens.

Drugs: See Controlled Substance. As used in this sub-section of the Policy, the term "drug" does not include cannabis or marijuana.

3. PROHIBITED ACTS

The following acts are prohibited and may result in discipline, up to and including discharge:

a. Reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions while having an alcohol concentration level of 0.02 or greater;

b. Reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions while possessing alcohol;

c. Consuming alcohol while reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions;

d. Reporting for duty, remaining on duty, or performing on-duty functions when under the influence of, using or possessing any drugs (including marijuana or cannabis), except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate vehicles or equipment or perform their job duties;

e. Testing positive for drug use while reporting for duty, remaining on duty, or performing on-duty functions;

f. Refusing to submit to any alcohol or drug test required by this policy. An employee who refuses to submit to a required drug or alcohol test will be treated in the same manner as an employee who receives a Positive Test;

g. Using alcohol or drugs within eight (8) hours after an incident or until tested for the presence of drugs or alcohol in the employee's system. If a Supervisor releases the employee from the scene before eight (8) hours after the incident or the employee is tested, the Supervisor must remind the employee of the prohibition from using alcohol or drugs within eight (8) hours after an accident or until tested;

h. The possession, transportation, distribution, receipt, sale, purchase, or arranging for the sale, purchase, or distribution of drugs (including marijuana or cannabis) or alcohol, including medicines containing alcohol (prescription or over-the-counter), while on duty, unless, with respect to medicines, the packaging seal is unbroken, or a competent physician has approved on-duty use. Limited exceptions to this paragraph may be approved, on a case-by-case basis, based on direction from a Supervisor, such as transportation of evidence, police operations, or clean-up of Community Center activities;

i. Failure to report to Supervisor any therapeutic drug use that an employee has been advised by a competent physician could interfere with the performance of their job duties;

j. Inappropriate use of prescribed drugs or use of prescribed drugs in a manner inconsistent with instruction from a Licensed Medical Practitioner;

k. Use of prescribed drugs which may cause significant impairment or create a safety hazard on the job without reasonable prior notification to a supervisor.

Use of prescribed drugs in the manner for which they were prescribed does not violate the

City's policy. Use of medically prescribed drugs or over-the-counter drugs is not a violation of this policy if directions are followed properly, no abuse is present, and the employee's ability to perform his/her job is not impaired. As set forth in this policy, an employee must notify his/her Supervisor before beginning work when taking prescription drugs or over-the-counter drugs that a qualified medical professional has advised may interfere with the safe and effective performance of the employee's duties.

4. REFUSAL TO CONSENT OR SUBMIT

Before a drug or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those City representatives with a need to know the test results. The consent form shall provide a space for employees and applicants to acknowledge that they have been notified of the City's drug testing policy.

An applicant who refuses to consent or submit to a drug test will be disqualified from employment with the City.

An employee's refusal to consent or submit to drug and alcohol testing in the circumstances outlined in this policy will be treated in the same manner as an employee who tested 0.02 or greater on an alcohol test or tested positively on a drug test. This may result in disciplinary action, up to and including termination.

Where there is a reasonable suspicion that the employee is under the influence of alcohol or drugs, the employee, Managers or Supervisor shall arrange for the employee to be transported home. The employee shall not transport himself/herself home.

A refusal to consent or submit to an alcohol or drug test required by this policy includes, but is not limited to:

- A refusal to sign a consent form;
- A refusal to provide a urine sample for a drug test;
- An inability to provide a urine sample without a valid medical explanation;
- A refusal to complete and sign the breath alcohol testing form or otherwise to cooperate with the testing process in a way that prevents the completion of the test;
- A failure to provide an adequate amount of breath for an alcohol test without a valid medical explanation;
- Tampering with or attempting to adulterate a urine specimen;
- Interfering with or tampering with collection procedures;

- Not reporting to the collection site in the time allotted by the Supervisor or Managers who directs the employee to be tested;

- Leaving the scene of an accident without a valid reason or authorization from a Supervisor or Managers;

- Consuming alcohol during the eight (8) hours immediately following an accident, unless the employee has been tested. If a Supervisor releases the employee from the scene before eight (8) hours after the accident or before the employee is tested, he/she is to remind the employee of the prohibition from using drugs or alcohol within eight (8) hours after the accident or until tested.

5. CONSEQUENCES FOR VIOLATION OF POLICY

An employee who is suspected of violating any of the prohibited acts listed in this policy may be immediately relieved of duties and placed on paid administrative leave until the results of the drug or alcohol test are confirmed. An employee who is found to have violated any of the prohibited acts listed in this policy may be immediately relieved of duties and placed on unpaid status after completion of any applicable administrative appeal process as outlined in the City's Personnel Policies and Procedures or the applicable MOU. Employees on unpaid status may use available sick leave or vacation time.

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination, according to the City's Personnel Policies and Procedures and any applicable MOU.

6. TYPES OF TESTING

Except as provided otherwise in a Memorandum of Understanding (MOU), the City has discretion to test a current employee upon reasonable suspicion, for the use of drugs or alcohol when requested by the Supervisor.

The conduct creating the reasonable suspicion must be witnessed by at least one (1) Supervisor or some other competent person.

The documentation of the employee's conduct shall be prepared and signed by the witness(es) who made the determination of reasonable suspicion. Witnesses must document the conduct on the Observed Behavior- Reasonable Suspicion Record Form, available in the Assistant Personnel Officer's office, within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earlier. Other witnesses may be asked to sign the form, as well.

Reasonable Suspicion means that the witness, based on direct, contemporaneous observations of an employee, reasonably believes that the actions, appearance, speech, odors, or conduct of an on-duty employee are indicative of the use of drugs or alcohol. The witness must directly observe the behavior. Hearsay or second-hand information of an employee's behavior is not sufficient cause to require an employee to submit to a

drug test. However, hearsay or second-hand information regarding non-behavioral evidence of drug or alcohol use or possession, such as observing an employee possess or take drugs or possess or drink alcohol may be sufficient. The determination that a reasonable suspicion exists to require an employee to undergo an alcohol test must be based on short- term, specific, objective, contemporaneous, articulable facts concerning the behavior, appearance, speech or odors of the employee.

Alcohol testing may be performed only if the observations upon which reasonable suspicion are based are made during, just preceding or just after the period of the work day that the employee is required to be in compliance. An employee may be directed to undergo a reasonable suspicion alcohol test just before, during or just after performing on-duty functions.

If an alcohol test is not administered within two (2) hours following a reasonable suspicion determination, the Supervisor shall document the reasons for the delay. An alcohol test must be administered within eight (8) hours of a reasonable suspicion determination.

If an alcohol test indicates a positive result, the employee must not be permitted to perform any on-duty functions until twenty- four (24) hours have elapsed following the determination of reasonable suspicion.

Once a reasonable suspicion determination is made, the Supervisor shall assure that the employee under suspicion is evaluated, and when necessary, transported to a specimen collection site to provide a urine sample.

The employee tested for reasonable suspicion must be placed on paid administrative leave until the test results are received from the MRO.

7. PRE-TESTING PROCEDURES

Upon determining that reasonable suspicion exists to conduct a drug or alcohol test of an employee:

- The Supervisor should personally escort the employee to an office or other private area. The Supervisor should have another Supervisor or other reliable employee present as a witness, if possible.

- The Supervisor should explain to the employee the reasons for suspecting drug and/or alcohol policy violations and document the reasons for suspected drug and/or alcohol policy violations in writing.

- If the Supervisor reasonably suspects that the employee is under the influence of drugs and/or alcohol, or has consumed drugs and/or alcohol on City premises or during work duty, the Supervisor should advise the employee that the provisions of this policy may have been violated and that he/she is being requested to submit to a drug and/or alcohol test in accordance with this policy.

- The Supervisor shall have the employee complete a consent to testing form. The Supervisor shall advise the employee that refusal to sign the form or give a specimen at the testing facility will be treated as a refusal to obey and direct request and will constitute an admission that suspicion is reasonable and may be grounds for discipline, up to and including termination.

- The Supervisor shall then escort the employee, with another Supervisor or reliable employee, if possible, to the City-approved drug/alcohol testing site. The employee shall not be permitted to drive himself/herself to the testing facility.

8. CLASSES OF TESTING

a. Drug Testing

Drug tests of employees covered by this sub-section of the Policy Drug testing shall be performed using the standards approved by the United States Department of Transportation (DOT), with the exception of testing for marijuana. Unless otherwise specified in an applicable MOU, urine collection shall be conducted in accordance with the DOT's Urine Specimen Collection Guidelines pursuant to 49 CFR Part 40, with the exception of testing for marijuana.

b. Alcohol Testing

Breath testing for alcohol use shall be performed using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration (NHTSA).

Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test.

If the alcohol concentration is 0.02 or greater, a confirmation test is conducted. The employee and the breath alcohol technician (BAT) conducting the breath test complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test results determine any actions taken.

D. OTHER PROVISIONS

1. NOTIFICATION OF ARREST OR CONVICTION

Each employee is required to notify the City in writing within five (5) calendar days of any arrest or conviction involving drugs or alcohol for a violation occurring in the workplace or outside of the workplace.

The City may be required to notify state or federal agencies from which the City receives grants or loans in writing within ten (10) calendar days after receiving a notice from an employee or otherwise receiving actual notice of a conviction for a violation which occurred at a site where City-related business was being performed. The City may be required to take one of the following actions within thirty (30) calendar days after receiving notice with respect to any employee who is so convicted:

- Taking appropriate disciplinary action against such an employee, up to and including termination; or

- Requiring such employee to participate satisfactorily in a drug or alcohol abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency, and to provide proof of satisfactory participation.

2. INSPECTIONS

The City reserves the right to search, without employee consent, all areas and property over which the City maintains full or joint control with the employee for the purposes of detecting alcohol or illegal drugs or substances. City property may be monitored and searched at any time and for any reason. Employees have no reasonable expectation of privacy in any City property, building, or communications system. These searches will be conducted in conformance with applicable law.

Personal items within City controlled or jointly controlled areas, including and not limited to briefcases, backpacks, clothing, plastic containers, or other containers such as drawers may be searched under the jurisdiction of this policy. The City may notify the appropriate law enforcement agency to conduct a search of an employee's personal items if it is believed that an employee may have illegal drugs in his or her possession. All searches will be conducted in conformance with applicable law, including but not limited to the California Public Safety Officers Procedural Bill of Rights Act and the California Firefighters Bill of Rights.

3. RECORD-KEEPING

The City will keep the following records for the periods specified. These records will be under the control of the Program Administrator or designee:

a. Results of an employee's alcohol test which indicates a Positive Test; results of an employee's drug test which indicates a Positive Test; documentation of any employee who refused to submit to a required alcohol/drug test; calibration documentation; employee assessments and referrals by an SAP. Minimum retention period: 5 years.

b. Records documenting the collection process for an alcohol and drug test and training of Supervisors. Minimum retention period: 2 years.

c. Results of any alcohol test that indicates a Negative Test or a canceled drug test. Minimum retention period: 1 year.

4. DISCIPLINE FOR WORK-RELATED PROBLEMS

The City may, it its sole discretion, impose administrative/disciplinary measures, up to and including termination, upon employees for rule violations and work-related problems separate and apart from violations of the alcohol/drug policy and even if such rule violations or work-related problems result from alcohol/drug abuse.

5. CONFIDENTIALITY

a. Confidentiality is an essential element of this policy. Any employee violating this confidentiality shall be subject to discipline and may also be civilly or criminally liable.

b. All records pertaining to drug and alcohol testing of an employee shall be contained in a separate confidential medical file that will be securely kept under the control of the Program Administrator, separate from the employee's other personnel records.

c. Absent the employee's consent, test results may be disclosed only to City management and only on a strictly need-to-know basis. Test results will be disclosed to the employee upon request.

d. The City may disclose test results without the employee's consent only when:

- The information is compelled by law or by judicial or administrative process;
- The information has been placed at issue by the employee in a formal dispute between the employee and the City;
- The information is necessary to administer an employee benefit plan; or
- The information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure.

e. Any positive test results that are later refuted shall be removed from the employee's file, and not used for any purpose, unless required by law.

6. NON-DISCRIMINATION REGARDING THE USE OF OFF-DUTY CANNABIS IN CERTAIN CIRCUMSTANCES

The City does not discriminate against, nor will it take any adverse employment action, against an employee or applicant for employment based on either the employee or the

applicant's off-duty use of marijuana away from the workplace, or a drug test result which indicates the presence of non-psychoactive cannabis metabolites in the employee or Applicant's hair, blood, urine, or other bodily fluids.

Groups excepted from this provision are:

- Employees or applicants for employment who are in the building and construction trades.

- Employees or applications for employment who are subject to either state or federal law or regulation that requires drug testing (*e.g.*, DOT rule 49 C.F.R. part 40).

- Employees or applicants for employment who are hired for positions that require a federal government background investigation or security clearance in accordance with regulations issue by the United States Department of Defense pursuant to Part 117 of Title 32 of the Code of Federal Regulations, or equivalent regulations applicable to other agencies;

- Any other category of employee or applicant excluded by law.

The City may take an employment action against an applicant for employment that is based on a scientifically valid pre-employment drug screening conducted through methods that do not screen for non-psychoactive cannabis metabolites.

The City may take an employment action against an employee based on the prohibited conduct enumerated in other sections of this policy.

EXHIBIT "B"

6.1 Eligibility for Benefits

PURPOSE

To establish guidelines and definitions for entitlement to benefits.

STATEMENT OF POLICY

Benefits are provided to employees at the discretion of the City of Santa Paula ("City"). Entitlement to benefits at differing levels is based on type of employment and the terms of individual memoranda of understanding with labor unions.

A. BENEFITS AVAILABLE TO REGULAR FULL-TIME EMPLOYEES

Employees classified as regular full-time employees in the City's classification plan shall receive the City's full benefits package as defined by the appropriate employment agreement between the City and each employee unit.

B. BENEFITS AVAILABLE TO TEMPORARY AND PART-TIME EMPLOYEES

Part-time employees assigned to work more than thirty-two (32) hours, but less than forty (40) hours per week per week on a regular schedule will be eligible for cafeteria benefits, vacation and sick leave accruals, and holiday hours on a pro-rated basis. Cafeteria benefits will be prorated based on the lowest cafeteria plan, whereas, leave accruals will be prorated based on the employee's continuous years of service as follows:

HOURS PER WEEK	(BI-WEEKLY ACCRUALS)
40	100%
39	97.5%
38	95%
37	92.5%
36	90%
35	87.5%
34	85%
33	82.5%
32	80%

Temporary, seasonal and/or part-time employees working less than thirty-two (32) hours per week are not eligible to receive City Benefits.

Temporary and Part-time employees shall be enrolled into the City's PERS Retirement System if they work more than nine-hundred ninety-nine (999) hours per year.

C. BENEFITS AVAILABLE TO ACTING/INTERIM APPOINTMENTS

Employees in an Acting Appointment are temporarily provided benefits normally associated with the position to which they are temporarily appointed. Employees in an Interim Appointment are to be provided benefits normally associated with the position to which they are appointed on an interim basis or compensation in lieu of benefits, as defined in the contract.

D. BENEFITS AVAILABLE UPON TRANSFERS OR PROMOTIONS

If the position to which an employee has been transferred or promoted carries benefits different from those of the previous position, the person becomes eligible for the benefits of the new position beginning the date of the transfer or promotion.

E. BENEFITS ON TERMINATION OR RETIREMENT

Benefits terminate upon date of termination, subject to effective dates of payments; continuations of certain benefits are subject to the laws regulating COBRA.

F. BENEFITS ON UNPAID LEAVE

The City provides benefits only during paid employment. If an employee is on unpaid leave, the employee is responsible for paying a prorated share of the City's cost of any benefits that are continued at the employee's request. This policy is not intended to impact any rights regarding benefits that an employee has while the employee is on unpaid leave under the protection of the FMLA or CFRA.

EXHIBIT "C"

7.2 Holiday Leave

PURPOSE

To provide a policy for uniform administration of standard City of Santa Paula ("City") holidays.

STATEMENT OF POLICY

Full-time, Part-time, regular and interim employees are entitled, from first date of hire, to the use of holiday leave according to guidelines outlined in this policy.

A. GENERAL PROVISIONS

The City shall celebrate twelve (12) holidays off with pay for regular and interim fulltime employees:

NEW YEAR'S DAY	January 1
MARTIN LUTHER KING DAY	3rd Monday in January
PRESIDENT'S DAY	3rd Monday of February
MEMORIAL DAY	Last Monday of May
INDEPENDENCE DAY	July 4
LABOR DAY	1st Monday of September
VETERAN'S DAY	November 11
THANKSGIVING DAY	4th Thursday of November
DAY AFTER THANKSGIVING	5th Friday of November
CHRISTMAS DAY	December 25
FLOATING HOLIDAY	Two (2) days at employee's choice upon approval of Department Head.

Represented employees shall refer to his or her established Memorandum of Understanding for additional holidays with pay.

Part-time employees assigned to work more than thirty-two (32) hours, but less than forty (40) hours per week per week on a regular schedule will be eligible for holiday hours on a pro-rated basis. Temporary, seasonal and/or part-time employees working less than thirty-two (32) hours per week are not eligible for paid holidays.

All requests and approvals for use of a floating holiday are to be properly completed including original signatures, on forms provided by the Personnel Office. Approval must be gained prior to the commencement of the requested use. Completed forms are to be forwarded to the Personnel Office after being utilized by the Supervisor to verify time sheets.

Floating holidays should be recorded on the employee time sheet under the holiday section with a special notation it is to be recorded as a floating holiday.

C. ACCOUNTING FOR HOLIDAYS

Holiday pay will be counted in eight (8) hour increments if the employee is working on a 8/40 schedule; nine (9) hour increments if the employee is working on a 9/80 schedule; ten (10) hour increments if the employee is working on a 10/40 schedule; and twelve (12) hour increments if the employee is working on a 3/12 schedule. in which holidays are accounted.

D. PROCEDURE

All employees are expected to utilize earned leave for the purpose for which it is designated. Leave time is not designated for banking or payout purposes. The City has the obligation to provide reasonable opportunity for the employee's use of the leave time. Unused holidays have no cash value and are not paid to terminating employees.

EXHIBIT "D"

7.7 Medical Leave

PURPOSE

To establish a policy and guidelines for the use of Family or Medical Leave for City of Santa Paula ("City") employees.

STATEMENTS OF POLICY

In accordance with the FMLA, CFRA, and the California Pregnancy Disability Leave (PDL), the City will provide such leaves of absences for eligible employees, as defined. Where FMLA leave qualifies as both Military Caregiver Leave and care of a family member with a serious health condition, the leave will be designated as military caregiver leave first.

A. DEFINITIONS

1. Child: A biological, adopted or foster child; a stepchild; a legal ward; or a child of an employee who stands in loco parentis to that child, who is either:

   a. under eighteen (18) years of age; or

   b. an adult dependent child; or

   c. eighteen (18) years of age or older who is incapable of self-care because of mental or physical disability.

   A child is "incapable of self care" if he/she requires active assistance or supervision to provide daily self care in three or more of the activities of daily living or instrumental activities of daily living – such as, caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones, and directories, etc.

   d. For Military Caregiver Leave and Qualifying Exigency Leave, an employee's child may be of any age.

2. Domestic Partner: A person who has filed a Declaration of Domestic Partnership with the California Secretary of State and who meets the requirements provided in California Family Code section 297.

3. Parent: The biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.

4. Spouse: A husband or wife as defined or recognized under California State law for purposes of marriage.

5. "Next of Kin", for purposes of Military Caregiver Leave: A service member's nearest blood relative, other than the military member's spouse, parent, child, or order of priority:

   a. All blood relatives who have been granted legal custody of the military member.

   b. All brothers and sisters.

   c. All grandparents.

   d. All aunts and uncles.

   e. All first cousins.

6. Veteran, for purposes of Military Caregiver Leave: Discharged under conditions other than dishonorable within the five-year period before the employee first takes military caregiver leave.

7. Health Care Provider:

   a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;

   b. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treat or supervise treatment of a serious health condition;

c. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;

d. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law; or

e. Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

8. Serious Health Condition: An illness, injury (including on-the-job injury), impairment, or physical or mental condition of the employee; or a child, parent, spouse, or domestic partner of the employee which involves one of the following:

a. impatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential health care facility;

b. a period of incapacity of more than three (3) consecutive days that involves treatment two (2) or more times by a health care provider or a regimen of continuing treatment;

c. any period of incapacity due to pregnancy or for prenatal care;

d. a chronic condition that requires periodic treatment by a health care provider and continues over an extended period of time;

e. a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or

f. any period of absence to receive multiple treatments, including the recovery therefrom.

9. Twelve (12) Month Period for FMLA/CFRA: The twelve (12) month period immediately preceding the first day of an employee's FMLA/CFRA leave.

10. Twelve (12) Month Period for Military Caregiver Leave: The single twelve (12) month period begins on the first day the employee takes leave for this reason and ends twelve (12) months later.

B. ELIGIBILITY

An employee is eligible for leave if the employee:

1. Has been employed for at least twelve (12) months; and

2. Has been employed for at least one-thousand two-hundred fifty (1,250) hours during the twelve (12) month period immediately preceding the commencement of the leave.

C. QUALIFYING EVENTS

Eligible employees may be entitled to unpaid leave for the following reasons:

1. The birth of a child or to care for a newborn of an employee;

2. The placement of a child with an employee in connection with the adoption or foster care of a child;

3. Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition; or

4. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position.

5. Leave because of a qualifying exigency while the employee's spouse, child or parent is on active duty or is called to covered active duty status, or has been notified of an impending call or order to covered active duty, under 29 CFR § 825.126, referred to in this policy as "Qualifying Exigency Leave":

   a. Short notice deployment. Leave taken when an employee's military family member is notified of a deployment in seven or fewer days before the date of deployment, the employee may use leave of any issue that arises from the short-notice deployment (limited to seven calendar days from date notified of deployment).

   b. Military events and related activities. Leave may be taken to attend military events and related activities, such as official ceremonies and events sponsored by the military related to the call to active duty, or to attend support or assistance programs or information briefings.

   c. Childcare and school activities. Leave may be taken to arrange for alternative childcare, to provide childcare on a non-routine, urgent, immediate need basis, to enroll in or transfer to a new school or daycare facility, or to attend school meetings necessitated by the call to active duty.

d. Financial and legal arrangement. Leave may be taken to make or update financial or legal arrangements to address the military member's absence while on call to or covered active duty status, such as a will or legal trust, powers of attorney, transferring bank account signature authority or obtaining military identification cards.

e. Counseling. Leave may be taken to attend counseling provided by someone other than a health care provider for oneself, the military member, or child of a military member (including biological child, foster child, stepchild or legal ward) related to the call to or covered active duty status of the military member.

f. Rest and recuperation. Leave may be taken (up to 15 calendar days) to spend time with a military member who is on short-term, temporary rest and recuperation leave during deployment.

g. Post-deployment activities. Leave may be taken for certain post-deployment activities within 90 days of the end of the military member's covered active duty, such as arrival ceremonies, reintegration briefings and events, and other official ceremony or program for up to 90 days following the termination of the military members covered active duty status.

h. Care of the military member's parent. Leave may be taken to care for the parent of a military member who is incapable of self-care

i. Additional activities. Leave may be taken to address other events that arise out of the military member's call to or covered active duty status, provided that an employer and employee agree that such leave shall qualify as an exigency.

6. Leave to care for an employee's child, parent, spouse, or 'next of kin" who is a current service member of the Armed Forces (including a member of the National Guard or Reserves), or a veteran of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, is in outpatient status through the Armed Forces, or is otherwise on the temporary disability retired list, for a serious injury or illness, referred to in this policy as "Military Caregiver Leave.'

D. AMOUNT OF LEAVE

Eligible employees are entitled up to twelve (12) workweeks of unpaid leave during any twelve (12) month period for qualifying family and medical reasons, or twenty-six (26) workweeks of unpaid military caregiver leave to provide care for a current service member or a veteran. In certain circumstances, an employee who uses part or all of his/her leave to care for a domestic partner may be entitled to more than twelve (12) workweeks of leave.

1. **Minimum Duration of Leave**

If leave is requested for the birth, adoption, or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one (1) day, but no less than two (2) weeks duration of any two (2) occasions.

If leave is requested to care for a child, parent, spouse, or domestic partner of the employee with a serious health condition, there is no minimum amount of leave that must be taken. However, the employee must comply with the notice and medical certification provisions of this policy.

An employee's entitlement to leave for the birth or placement of a child for adoption or foster care expires twelve (12) months after the birth or placement.

Leave provided under State Workers' Compensation laws are excluded from this policy.

2. **Pregnancy Disability Leave (PDL)**

If an employee is disabled by pregnancy, childbirth or a pregnancy related medical conditions, the employee is entitled to take a pregnancy disability leave of up to four (4) months, (or eighty-eight (88) workdays for a full-time employee) depending on the period(s) of actual disability per pregnancy. If an employee is CFRA-eligible, the employee may have certain rights to take both pregnancy disability leave and a CFRA leave after the birth of the child.

If an employee elects to take medical leave because of a disability due to pregnancy, such leave runs concurrently with her pregnancy disability leave rights.

If you are affected by pregnancy or a related medical condition, you are also eligible for consideration to transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties if this transfer is medically advisable, and such transfer can be reasonably accommodated by the City.

Pregnancy disability leave does not need to be taken in one continuous period of time but can be taken on an as-needed basis. If pregnancy disability leave is taken on an intermittent or reduced schedule basis, and it is foreseeable based on planned medical treatment because of pregnancy, the City retains the discretion to transfer the employee temporarily to an alternative position, for which the employee is qualified, with equivalent pay and benefits which better accommodates the employee's leave schedule.

Time off needed for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, and recovery from childbirth would all be covered by pregnancy disability leave.

3. **Parents Both Employed by the City of Santa Paula**

In any case in which both parents of a child are employed by the City and are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to twelve (12) workweeks during any twelve (12) month period if leave is taken for the birth or placement for adoption or foster care of the employee's child. This limitation does not apply to any other type of leave under this policy.

E. EMPLOYEE BENEFITS WHILE ON LEAVE

Leave under this policy is unpaid. While on leave, an employee will continue to be covered by the City's group insurance benefits (*i.e.*, life, LTD, medical, dental, and vision) to the same extent that coverage is provided while the employee is on the job.

All other benefits (*i.e.*, vacation accrual, sick accrual, and holiday) will continue as long as the employee is continuing to receive a paycheck.

If the employee fails to return from the FMLA/CFRA leave for a reason other than the recurrence, continuation, or onset of a serious health condition or other circumstances beyond the employee's control, the City can recover any health premiums paid by the City on the employee's behalf during any unpaid periods of the leave.

F. SUBSTITUTION OF PAID ACCRUED LEAVES

1. Substitution of Paid Leave for Medical Leave

When an employee takes FMLA/CFRA leave for his/her own serious health condition, he/she is required to substitute all accrued paid leaves, including sick leave and vacation.

2. Substitution of Paid Leave for Family Care Leave

When an employee takes FMLA/CFRA leave for a reason other than his/her own serious health condition, he/she is required to substitute all accrued paid leaves, except sick leave. Any employee may elect to substitute accrued sick leave, but he/she is not required to do so.

3. Substitution of Paid Leave for Pregnancy Disability Leave

An employee taking pregnancy disability leave must substitute any accrued sick leave for her leave, and may, at her option, substitute any accrued vacation time or other paid leaves for her pregnancy disability leave.

4. City's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves

If an employee takes a leave of absence for any reason which is FMLA/CFRA-qualifying, the City may designate the non-FMLA/CFRA leave as running concurrently with the employee's twelve (12) week FMLA/CFRA leave entitlement.

5. City's and Employee's Rights if an Employee Requests Accumulated Leave without Mentioning Either FMLA or CFRA

If an employee requests to utilize accumulated vacation leave or other accumulated paid time off without reference to a FMLA/CFRA-qualifying purpose, the City might not ask the employee if the leave is for a FMLA/CFRA-qualifying purpose. If the employee voluntarily provides enough information as to the purpose of the leave that the City believes the employee may be seeking to take FMLA/CFRA leave, the City may inquire as to whether the leave qualifies for FMLA/CFRA leave. However, if the City denies the employee's request and the employee provides information that the requested time off is for a

FMLA/CFRA-qualifying purpose, the City may inquire further into the reason for the absence. If the reason is FMLA/CFRA-qualifying, the City may require the employee to exhaust accumulated leave as described above.

G. CERTIFICATION

1. Time to Provide a Certification

When an employee's leave is foreseeable and at least thirty (30) day's notice has been provided, the employee must provide a medical certification before the leave begins if requested by the City. When this is not possible, the employee must provide the requested certification to either the employee's Supervisor or Department Head within the time frame requested by the City (which must allow at least fifteen (15) calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

2. Consequences for Failure to Provide an Adequate or Timely Certification

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established by this policy, the City may delay the taking of FMLA/CFRA leave until the required certification is provided.

If the employee asks for leave because of his/her own serious health condition, and the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen by the City and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, and paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a recertification.

3. Medical Certification Forms

a. For Employee's Own Serious Health Condition and/or Pregnancy Disability

A medical certification form from the health care provider must include:

i. The date, if known, on which the serious health condition commenced or disability due to pregnancy;

ii. The probable duration of the condition;

iii. A statement that due to the serious health condition or disability, the employee is unable to work at all or is unable to perform any

one or more of the essential functions of his/her position; or in the case of a disability due to pregnancy, cannot perform the essential functions of the position without undue risk to the employee, the successful completion of the pregnancy; and

iv. If FMLA leave is being taken on an intermittent or reduced schedule basis, a statement that it is medically necessary for the employee to be on intermittent or reduced schedule leave and what the intermittent/reduced schedule leave will be.

For pregnancy disability, if a job transfer is recommended by the employee's health care provider, a statement that the transfer is medically advisable.

b. For a Family Member with a Serious Health Condition

A medical certification form from the employee's family member's health care provider must contain the following information:

i. The date, if known, on which the serious health condition commenced;

ii. The probable duration of the condition;

iii. An estimate of the amount of time that the health care provider believes that the employee will need to care for the family member;

iv. A statement that the serious health condition warrants the employee's participation to provide and care; and

v. If FMLA/CFRA leave is being taken on an intermittent or reduced schedule basis, a statement that it is medically necessary for the employee to provide care on an intermittent or reduced schedule basis and what the intermittent/reduced schedule will be.

4. **Qualifying Exigency Leave**

a. A copy of the military member's active duty orders (or other official documentation issued by the military) which indicates the military member is on covered active duty or call to covered active duty status.

b. A statement or description of the appropriate facts requiring the qualifying exigency.

c. A copy of the military member's rest and recuperation orders, or other documentation confirming the dates of the military member's leave.

5. **Military Caregiver Leave**

   a. Certification completed by an authorized health care provider or a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member's family.

H. EMPLOYEE NOTICE OF LEAVE

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g., for birth of a child or to take care of a newborn), the employee shall inform his/her Supervisor as soon as possible that such leave will be needed.

If the employee fails to give the requisite thirty (30) days' notice for foreseeable events without any reasonable excuse for the delay, the City reserves the right to delay the

taking of the leave until at least thirty (30) days after the date the employee provides notice of his/her need for FMLA/CFRA leave. I. REINSTATEMENT UPON RETURN FROM LEAVE

a. **Right to Reinstatement from FMLA/CFRA Leave**

Upon expiration of leave, an employee is entitled to be restored to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Employee has no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period. For example, if a reduction in force or other reorganization has taken place while the employee is on leave pursuant to this policy, the employee will be treated as if he/she has been on duty rather than on leave.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two (2) business days, where feasible, after the employee notifies the employer of his/her return.

Employees will be credited with all service prior to the commencement of their leave but not for the period of their leave. Employees who do not return at the end of their leave will be considered to have voluntarily resigned.

b. **Right to Reinstatement from Pregnancy Disability Leave**

On timely return at the expiration of the pregnancy disability leave period, an employee is entitled to the same position unless the employee would not otherwise have been employed in the same position at the time reinstatement is requested for legitimate business reasons unrelated to the employee's pregnancy disability leave or each means of preserving the job for the employee (such as leaving it unfilled or filling it with a temporary employee) would have substantially undermined the City's ability to operate the business safely and efficiently. If the employee is not reinstated to the same position, she will be reinstated to a comparable position unless there is no comparable position available or a comparable position is available, but filling that position with the returning employee would substantially undermine the City's ability to operate the business safely and efficiently.

When a request for pregnancy disability leave is granted to an employee, the City will give the employee a written guarantee of reinstatement at the end of the leave (with the limitations explained above.)

c. **Employee's Obligation to Periodically Report on His/Her Status**

Employees may be required to periodically report on their status and intent to

return to work. This will avoid any delays to reinstatement when the employee is ready to return.

d. **Fitness-for-Duty Certification**

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition or pregnancy disability, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

e. **Reinstatement of "Key Employees"**

A "key" employee is an exempt salaried employee who is among the highest paid ten percent (10%) of the City's employees. The City may deny reinstatement to a "key" employee if the refusal is necessary to prevent substantial and grievous economic injury to the City's operations and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

H. REQUIRED FORMS

Employees must fill out all applicable forms in connection with leave under this policy including the following:

1. "Request for Leave Under the Family Medical Leave Act, California Rights Act and/or California Pregnancy Disability Leave" prepared by the City to be eligible for leave;

2. Medical certification either for the employee's own serious health condition or for the serious health condition of a child, parent, spouse, or domestic partner;

3. Authorization for payroll deductions for benefit plan coverage continuation; and

4. Fitness for duty to return from leave form.

The employee must return all forms to the Personnel Officer. The decision whether a particular leave is FMLA/CFRA qualifying is made by the Personnel Officer, not the individual employee.

I. RELATIONSHIP BETWEEN PREGNANCY LEAVE AND FMLA LEAVE

This policy will be interpreted and applied in accordance with the FMLA, CFRA, and PDL, the regulations there under and all other applicable laws. Employees wishing to take pregnancy disability leave should be aware of the following:

1. Pregnancy disability leave may also be FMLA leave;

2. The City may be able to count time used on PDL against the twelve (12) week FMLA leave; and

3. Pregnancy is considered a "serious health condition" for FMLA purposes.

2.5 Drug and Alcohol Policy

PURPOSE

To establish a policy prohibiting workplace use of drugs or alcohol by employees of the City of Santa Paula and define a procedure for dealing with workplace abuse of drugs or alcohol.

STATEMENT OF POLICY

There is an obligation to ensure a safe and healthy work environment and to perform work for the public safely, effectively, and efficiently. This policy is intended to assure that the workplace is free of employees whose job performance may be impaired by the use of drugs or alcohol.

An ongoing awareness program shall be conducted to inform employees about (1) the danger of drugs and alcohol in the workplace; (2) the City's policy of maintaining a workplace free of substance abuse; (3) available help for those with substance abuse problems; and (4) penalties for violation of this policy.

The performance of any of the prohibited acts outlined in this policy will not be tolerated. When an employee's ability to perform their job is impaired by drugs or alcohol, it is the responsibility of the Supervisor to remove such employee from the work environment for the safety of the employees, fellow employees, and the public.

~~The consumption of alcohol or legal drugs while an employee is on duty or off duty, to the point that safe and effective job performance is impaired, will not be tolerated.~~

~~The consumption of illegal drugs, or the manufacture, distribution, dispensing, possession, or use of an illegal drug, while an employee is on duty or off duty, will not be tolerated. If any of these behaviors occur, or a test shows that an employee has used drugs or is under the influence of drugs or alcohol, the employee may be denied transfer or promotion, or may be disciplined, up to and including termination. The employee may also be eligible for treatment or rehabilitation. Further, applicants for vacant positions who test positive for drugs on a pre-employment drug screening test may be denied employment.~~

~~When an employee's ability to perform their job is impaired by drugs or alcohol, it is the responsibility of the Supervisor to remove such employee from the work environment for the safety of the employees, fellow employees, and the public.~~

The City recognizes that drug and alcohol abuse may be considered a treatable illness, and to the extent possible, the response to drug or alcohol abuse may be treatment or rehabilitation. Employees who suspect they may have a drug or alcohol abuse problem are encouraged to seek assistance prior to engaging in behavior that may lead to disciplinary action.

Drug and alcohol testing will be conducted to assure compliance with this policy, as well as to

comply with the Federal Drug Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991.

~~Use of medically prescribed drugs or over-the-counter drugs is not a violation of this policy if directions are followed properly, no abuse is present, and the employee's ability to perform his/her job is not impaired. As set forth in this policy, an employee must notify his/her Supervisor before beginning work when taking prescription drugs or over-the-counter drugs that a qualified medical professional has advised may interfere with the safe and effective performance of the employee's duties.~~

It is the responsibility of the employee to understand this Policy, and to ask for an explanation of this policy from his/her Supervisor, if necessary.

COMPLIANCE WITH THIS POLICY IS A CONDITION OF EMPLOYMENT.

PROCEDURE

A. DEFINITIONS

The following definitions are applicable to the enforcement of this policy:

Accident: An occurrence involving a City employee which results in any of the following: (1) death of a person; (2) bodily injury (for example, loss of consciousness, concussion, bone fracture or break, loss or impairment of function of any bodily organ, wound, or other disfigurement) to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the occurrence; or
(3) damage to a vehicle that is extensive enough that the vehicle must be towed from the scene of the accident. This definition does not include damage to a vehicle that can be repaired at the scene, such as a flat tire or broken headlight. This definition also excludes willful or deliberate acts by a third party that results in injury to the employee, the third party, or others, unless supervisory personnel reasonably suspect that there are employee alcohol or drug impairment issues that contributed to the altercation.

Alcohol Concentration: The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

Alcohol Use: The consumption of any beverage or mixture, including any medication, containing alcohol.

Applicant: Any person applying for employment with the City who has been extended a conditional offer of employment.

B.A.T.: A trained breath alcohol technician who operates the National Traffic Safety Administration-approved evidential breath testing devise.

~~Bodily Injury: The impairment of a physical condition, such as loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily organ; a wound; or disfigurement.~~

~~Controlled Substance: Any drug that is classified by the Drug Enforcement Administration into the five schedules or classes on the basis of their potential for abuse, accepted use, and accepted safety under mediation supervision. The presence of a drug on any of these schedules identifies that it is "controlled" and determines the nature of the supervisory control that must be exercised. "Controlled substance" includes, but is not limited to: narcotics, depressants, stimulants, and hallucinogens.~~

~~Confirmation Test: For alcohol testing, a second test that provides quantitative data of alcohol concentration following a screening test with a result of 0.02 grams or greater of alcohol. For controlled substances testing, a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test in order to ensure reliability and accuracy.~~

~~Drugs: See Controlled Substance.~~

Evidential Breath Testing Device (EBT): A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL), which produces a printout.

Licensed Medical Practitioner: A person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, and Local laws and regulations to prescribe controlled substances and other drugs.

~~Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.~~

Negative Test: A test result which is reported to the City and indicates that there is insufficient or not enough controlled substances and/or alcohol present in a sample to generate a positive result; or the MRO determines that there was a legitimate medical use for the prohibited drug.

On-Duty Time: All of the time from the time a covered employee begins work or is required to be in readiness to work, until the time he/she is relieved from work and all responsibility for performing work. "On-Duty Time" also includes all time spent

providing a urine specimen, including travel time to and from the collection site, in order to comply with testing requirements.

Performing a Safety Sensitive Function: Any period in which an employee is actually performing, ready to perform, or immediately available to perform any function that poses risks of injury to the employee, co-workers, or the public.

Positive Test: ~~A~~A confirmed test result for either alcohol or drugs that is at or above the permissible limits under the law. ~~positive test threshold for controlled substances pursuant to the Department of Health and Human Services (DHHS) guidelines or above 0.02 alcohol concentration. Initial test threshold levels for controlled substances are as follows: Marijuana Metabolites 50 ng/ml Cocaine Metabolites 300 ng/ml Phencyclidine (PCP) 25 ng/ml Amphetamines 1000 ng/ml Opiate metabolites 2000 ng/ml Methaqualone 300 ng/ml Propoxyphene 300 ng/ml Methadone 300 ng/ml Benzodiazepines 300 ng/ml Barbituates 300 ng/ml Heroin 2000 ng/ml Confirmatory test threshold levels for controlled substances are as follows: Marijuana Metabolites 15 ng/ml Cocaine Metabolites 150 ng/ml Phencyclidine (PCP) 25 ng/ml Amphetamines 500 ng/ml Opiate metabolites 2000 ng/ml (10 ng/ml for 6acetylmorphine) Methaqualone 200 ng/ml Propoxyphene 200 ng/ml Methadone 200 ng/ml Benzodiazepines 200 ng/ml Barbituates 200 ng/ml Heroin 2000 ng/ml~~

Program Administrator: Personnel Officer or designated City Representative.

Prescription Drugs: Any drug or medication prescribed by a licensed physician for a medical condition which has been legally obtained and is taken for the purpose prescribed by the licensed physician.

Reasonable Suspicion: A belief based on objective and articulable facts sufficient to lead a reasonable and trained Supervisor to suspect that an employee is under the influence of

a controlled substance and/or alcohol. For example, any of the following, alone or in combination, may constitute reasonable suspicion that an employee may have a prohibited presence of a drug and/or alcohol in his/her system:

- Slurred speech
- Alcohol odor on breath
- Unsteady walking or movement
- Physical impairment (*e.g.,* eye dilation, shaking, or erratic movement)
- An accident
- A physical altercation
- A verbal altercation
- Possession of a drug and/or alcohol
- Information from a reliable person with personal knowledge of an employee's recent drug and/or alcohol use
- Excitement or confusion
- Mood swings
- Disorientation or job impairment (*I.e.,* inability to perform the job in a routine manner)
- Glassy eyes
- Drowsiness
- Euphoria
- Irritability
- Aggressiveness

Refusal: A failure to comply with the testing process including an inability to provide an adequate urine specimen without a valid medical explanation; a verbal refusal, obstructive behavior, or physical absence which precludes completion of the test; or leaving an accident scene without a valid reason before the test has been conducted.

~~"Safety Sensitive Employee": As used in this policy, the term "Safety Sensitive Employee" refers to employees who perform Safety Sensitive Functions; are in the building and construction trades; are subject to a state or federal law or regulation which requires drug testing, for example Department of Transportation ("DOT") rule 49 C.F.R. part 40); who are hired for positions that require a federal government background investigation or security clearance in accordance with regulations issued by the United States Department of Defense pursuant to Part 117 of Title 32 of the Code of Federal Regulations, or equivalent regulations applicable to other agencies; or are otherwise subject to certain drug and alcohol testing requirements by law. The City has a special need to test Safety Sensitive Employees for drugs and alcohol due to the sensitive nature of their position.~~

Screening Test: In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his or her system. In drug testing, an immunoassay screen to eliminate "negative" urine specimens from

further consideration.

~~Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances related disorders.~~

~~Substantial Damage: Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner after simple repairs. "Substantial damage" includes damage to motor vehicles that could be driven, but would be further damaged by doing so, but it does not include damage which can be repaired at the scene without special tools, tire disablement without other damages, headlight or taillight damage, damage to turn signals, horn or windshield wipers.~~

B. EMPLOYEES SUBJECT TO THE DEPARTMENT OF TRANSPORTATION REGULATIONS

~~POLICY~~

1. **APPLICABILITY**

~~This~~ Sub-section (B) of Policy 2.5 applies to all City employees, regardless of their organizational unit, whose employment is subject to Department of Transportation (DOT) regulation; who are subject to , federal background checks or security clearance; who are in the building and construction trades; or whose employment is otherwise subject to drug testing under federal law, when they are on City property or performing City-related business. ~~including Police Reserves and Fire Reserves,~~

City positions which are subject to sub-section (B) of Policy 2.5 may include, but are not limited to:

- Building Inspector I/II
- Chief Building Official
- Code Enforcement Inspector
- Facility Maintenance Supervisor
- Facility Maintenance Worker I/II
- Fleet Supervisor
- Maintenance Worker I/II
- Mechanic Helper
- Mechanic I/II
- Street Maintenance Leadworker
- Water Operations Superintendent
- Water System Operator I/II/III/IV

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The exclusion of a specific job position from the above list does not waive the City's ability to conduct testing of an employee in a position which is not enumerated in the above list. The City will conduct testing for employees pursuant to this sub-section as required by all applicable laws.

In addition, random testing procedures (Section (B)(8)(b) below) will apply to specific positions listed there, even if they are not subject to the DOT regulations.

Each employee will be provided a copy of this Policy and will be required to review, abide by, and sign a statement agreeing that they have received and read a copy of this Policy, and that their questions have been satisfactorily answered by their Supervisor. ~~Employees included in Random Pool # 3 are not currently covered by the Omnibus Transportation Employee Testing Act of 1991.~~

ANY QUESTIONS REGARDING THE WORKPLACE SAFETY FROM SUBSTANCE ABUSE POLICY MAY BE DIRECTED TO THE PERSONNEL OFFICER.

~~B.~~C. NOTIFICATION OF ARREST OR CONVICTION

Each employee is required to notify the City in writing within five (5) calendar days of any arrest or conviction involving drugs or alcohol for a violation occurring in the workplace or outside of the workplace.

The City may be required to notify state or federal agencies from which the City receives grants or loans in writing within ten (10) calendar days after receiving a notice from an employee or otherwise receiving actual notice of a conviction for a violation which occurred at a site where City-related business was being performed. The City may be required to take one of the following actions within thirty (30) calendar days after receiving notice with respect to any employee who is so convicted:

- Taking appropriate disciplinary action against such an employee, up to and including termination; or
- Requiring such employee to participate satisfactorily in a drug or alcohol abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency, and to provide proof of satisfactory participation.

1. DEFINITIONS

Controlled Substance: Any drug that is classified by the Drug Enforcement Administration into the five schedules or classes on the basis of their potential for abuse, accepted use, and accepted safety under mediation supervision. The presence of a drug on any of these schedules identifies that it is "controlled" and determines the nature of the supervisory control that must be exercised. "Controlled substance" includes, but is not limited to: narcotics, depressants, stimulants, hallucinogens, and marijuana.

Drugs: See Controlled Substance.

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

~~C.~~2. PROHIBITED ACTS

The following acts are prohibited and may result in discipline, up to and including discharge:

~~1.~~a. Reporting for duty, remaining on duty, operating City vehicles or

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equipment, or performing on-duty functions while having an alcohol concentration level of 0.012 or greater;

2.b. Reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions within four (4) hours of consuming alcohol;

3.c. Reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions while possessing alcohol;

4.d. Consuming alcohol while reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions;

5.e. Reporting for duty, remaining on duty, or performing on-duty functions when under the influence of, using or possessing any drugs, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate vehicles or equipment or perform their job duties;

6.f. Testing positive for drug use while reporting for duty, remaining on duty, or performing on-duty functions;

7.g. Refusing to submit to any alcohol or drug test required by this policy. An employee who refuses to submit to a required drug or alcohol test will be treated in the same manner as an employee who ~~tested 0.02 or greater on an alcohol test or tested positively on a drug test~~receives a Positive Test;

8.h. Using alcohol or drugs within eight (8) hours after an incident or until tested for the presence of drugs or alcohol in the employee's system. If a Supervisor releases the employee from the scene before eight (8) hours after the incident or the employee is tested, the Supervisor must remind the employee of the prohibition from using alcohol or drugs within eight (8) hours after an accident or until tested;

9.i. The possession, transportation, distribution, receipt, sale, purchase, or arranging for the sale, purchase, or distribution of drugs (including marijuana or cannabis) or alcohol, including medicines containing alcohol (prescription or over-the-counter), while on duty, unless, with respect to medicines, the packaging seal is unbroken, or a competent physician has approved on-duty use.

Limited exceptions to this paragraph may be approved, on a case-by-case basis, based on direction from a Supervisor, such as transportation of evidence, police operations, or clean-up of Community Center activities.

j. Failure to report to Supervisor any therapeutic drug use that an employee has been advised by a competent physician could interfere with the performance of their job duties.

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k. Inappropriate use of prescribed drugs or use of prescribed drugs in a manner inconsistent with instruction from a Licensed Medical Practitioner.

~~10.~~l. Use of prescribed drugs which may cause significant impairment or create a safety hazard on the job without reasonable prior notification to a supervisor.

Use of prescribed drugs in the manner for which they were prescribed does not violate the City's policy. Use of medically prescribed drugs or over-the-counter drugs is not a violation of this policy if directions are followed properly, no abuse is present, and the employee's ability to perform his/her job is not impaired. As set forth in this policy, an employee must notify his/her Supervisor before beginning work when taking prescription drugs or over-the-counter drugs that a qualified medical professional has advised may interfere with the safe and effective performance of the employee's duties.

~~11.~~

~~D.~~3. REFUSAL TO CONSENT OR SUBMIT

Before a drug or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those City representatives with a need to know the test results. The consent form shall provide a space for employees and applicants to acknowledge that they have been notified of the City's drug testing policy.

~~1. **Refusal To Consent or Submit**~~

An applicant who refuses to consent or submit to a drug test will be disqualified from employment with the City.

An employee's refusal to consent or submit to drug and alcohol testing in the circumstances outlined in this policy will be treated in the same manner as an employee who tested 0.01~~2~~ or greater on an alcohol test or tested positively on a drug test. This may result in disciplinary action, up to and including termination.

Where there is a reasonable suspicion that the employee is under the influence of alcohol or drugs, the employee, Managers or Supervisor shall arrange for the employee to be transported home. The employee shall not transport himself/herself home.

A refusal to consent or submit to an alcohol or drug test required by this policy includes, but is not limited to:

a. A refusal to sign a consent form;

b. A refusal to provide a urine sample for a drug test;

c. An inability to provide a urine sample without a valid medical explanation;

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d. A refusal to complete and sign the breath alcohol testing form or otherwise to cooperate with the testing process in a way that prevents the completion of the test;

e. A failure to provide an adequate amount of breath for an alcohol test without a valid medical explanation;

f. Tampering with or attempting to adulterate a urine specimen;

g. Interfering with or tampering with collection procedures;

h. Not reporting to the collection site in the time allotted by the Supervisor or Managers who directs the employee to be tested;

i. Leaving the scene of an accident without a valid reason or authorization from a Supervisor or Managers;

j. Consuming alcohol during the eight (8) hours immediately following an accident, unless the employee has been tested. If a Supervisor releases the employee from the scene before eight (8) hours after the accident or before the employee is tested, he/she is to remind the employee of the prohibition from using drugs or alcohol within eight (8) hours after the accident or until tested.

~~**E. INSPECTIONS**~~

~~The City reserves the right to search, without employee consent, all areas and property over which the City maintains full or joint control with the employee for the purposes of detecting alcohol or illegal drugs or substances. City property may be monitored and searched at any time and for any reason. Employees have no reasonable expectation of privacy in any City property, building, or communications system. These searches will be conducted in conformance with applicable law.~~

~~Personal items within City controlled or jointly controlled areas, including and not limited to briefcases, backpacks, clothing, plastic containers, or other containers such as drawers may be searched under the jurisdiction of this policy. The City may notify the appropriate law enforcement agency to conduct a search of an employee's personal items if it is believed that an employee may have illegal drugs in his or her possession. All searches will be conducted in conformance with applicable law, including but not limited to the California Public Safety Officers Procedural Bill of Rights Act.~~

~~**F. RECORD-KEEPING**~~

~~The City will keep the following records for the periods specified. These records will be under the control of the Program Administrator or designee:~~

~~1. Results of an employee's alcohol test which indicates an alcohol concentration level of .02 (.01 for Safety Sensitive Employees) or higher; results of an employee's drug test which is positive; documentation of~~

~~any employee who refused to submit to a required alcohol/drug test; calibration documentation; employee assessments and referrals by an SAP. Minimum retention period: 5 years.~~

~~2. Records documenting the collection process for an alcohol and drug test and training of Supervisors. Minimum retention period: 2 years.~~

~~3. Results of any alcohol test, which is less than .02 (.01 for Safety Sensitive Employees); documentation of any negative or canceled drug test. Minimum retention period: 1 year.~~

~~4. Records related to the education and training of screening test technicians, Supervisors and drivers, while the individual performs the functions Minimum retention period: Indefinite.~~

~~G.~~4. EFFECTS OF ALCOHOL AND DRUGS

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Fact Sheets published by the Federal Transit Administration addressing the effects of alcohol and the various drugs which are tested for under this policy are available for review from Supervisors, Department Heads, or the Assistant Personnel Officer's office.

Also provided, as a supplement in the City's "Workplace Safety from Substance Abuse Policy Handbook" is a list of available methods of intervention when a drug or alcohol problem is suspected.

~~H.~~5. CONSEQUENCES FOR VIOLATION OF POLICY

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An employee who is suspected of violating any of the prohibited acts listed in this policy may be immediately relieved of duties and placed on paid administrative leave until the results of the drug or alcohol test are confirmed. An employee who is found to have violated any of the prohibited acts listed in this policy may be immediately relieved of duties and placed on ~~sick leave~~unpaid status after completion of any applicable administrative appeal process as outlined in the City's Personnel Policies and Procedures or the applicable MOU. Employees on unpaid status may use available sick leave or vacation time.

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination, according to the City's Personnel Policies and Procedures and any applicable MOU.

In addition to disciplinary action, an employee ~~In addition, the employee~~who receives a positive result from a drug or alcohol test also:

~~1. Shall submit to an examination by an SAP if tested positive for drugs or 0.02 or higher for alcohol or positive for drugs at the threshold levels provided for in this Policy. Upon a determination by the SAP, the employee may be required to undergo treatment to cure his/her alcohol or drug abuse. The City is not required to pay for this treatment;~~

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~~2.~~a. Shall be removed from performing on-duty functions for at least twenty-four (24) hours and ~~May~~ will not be returned to his/her former position until the employee submits to a return-to-duty drug and/or alcohol test (depending on which test the employee failed) which indicates ~~an alcohol concentration level of less than 0.02~~ a Negative Test;

~~a.~~b. Shall submit to unannounced follow-up testing after he/she been returned to his/her on-duty functions;

~~b. Will be removed from performing on-duty functions for at least twenty-four (24) hours if an alcohol test indicates an alcohol concentration level of 0.02 or higher; or initial drug test threshold of those drugs listed in this Policy.~~

c. May be subject to a "last chance" agreement and placed on an unpaid ~~sick~~ leave status in cases where immediate termination is not warranted ~~but a positive analysis for drugs or alcohol is returned.~~

On a case-by-case basis, the City may allow an employee the chance to be examined by an SAP before evaluating further City actions. The City may advise an employee who engages in conduct prohibited under this Policy of the available resources for evaluation and treatment of drug/alcohol problems, including the names, addresses and telephone numbers of SAPs, counseling, treatment programs or other available services. The City will provide an SAP evaluation to assess employees with drug and/or alcohol problems.

Each employee who violates these rules must be evaluated to determine whether the employee needs assistance resolving problems associated with drug and/or alcohol, and if necessary, a referral for further treatment.

Before returning to duty, each employee must: (a) be evaluated again by an SAP to determine whether the employee has successfully complied with the treatment program prescribed following the initial evaluation; (b) undergo a drug and/or alcohol test to satisfy established acceptable results for return to duty; and, (c) be subject to a minimum of six (6) unannounced, follow-up drug and/or alcohol tests over the following twelve (12) months.

The City will only provide an assessment by an SAP. The City has no obligation to provide or pay for further treatment.

~~c.~~

~~3.~~6. **EMPLOYEE REQUESTS ASSISTANCE**

If an employee comes forward before the results of a positive drug or alcohol test are released and requests assistance for a drug or alcohol problem, the City will refer the employee to a SAP. Upon a determination by the SAP, the employee may be required to undergo treatment to cure his/her alcohol or drug abuse. The City is not required to pay for this treatment. The employee will be subject to all return-to-duty requirements outlined in this Policy.

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I. DISCIPLINE FOR WORK-RELATED PROBLEMS

The City may, it its sole discretion, impose administrative/disciplinary measures, up to and including termination, upon employees for rule violations and work-related problems separate and apart from violations of the alcohol/drug policy and even if such rule violations or work-related problems result from alcohol/drug abuse.

J. CONFIDENTIALITY

1. Confidentiality is an essential element of this policy. Any employee violating this confidentiality shall be subject to discipline and may also be civilly or criminally liable.

2. The results of any testing pursuant to this policy shall be used for employment purposes only and shall not be released for use in the criminal justice system, unless required by law.

3. All records pertaining to drug and alcohol testing of an employee shall be contained in a separate confidential medical file that will be securely kept under the control of the Program Administrator, separate from the employee's other personnel records.

4. Absent the employee's consent, test results may be disclosed only to City management and only on a strictly need-to-know basis. Test results will be disclosed to the employee upon request.

5. The City may disclose test results without the employee's consent only when:

   a. The information is compelled by law or by judicial or administrative process;

   b. The information has been placed at issue by the employee in a formal dispute between the employee and the City;

   c. The information is necessary to administer an employee benefit plan; or

   d. The information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure.

6. Any positive test results, which are later refuted shall be removed from the employee's file, and not used for any purpose, unless required by law.

K. NON-DISCRIMINATION REGARDING THE USE OF OFF-DUTY CANNABIS IN CERTAIN CIRCUMSTANCES

The City does not discriminate against, nor will it take any adverse employment action, against an employee or applicant for employment based on either the employee or the applicant's off-duty use of marijuana away from the workplace, or a drug test result which indicates the presence of

~~non-psychoactive cannabis metabolites in the employee or applicant's hair, blood, urine, or other bodily fluids.~~

~~Groups excepted from this provision are:~~

- ~~Employees or applicants for employment who are in the building and construction trades;~~
- ~~Employees or applications for employment who are subject to either state or federal law or regulation that requires drug testing (*e.g.*, DOT rule 49 C.F.R. part 40);~~
- ~~Employees or applicants for employment who are hired for positions that require a federal government background investigation or security clearance in accordance with regulations issue by the United States Department of Defense pursuant to Part 117 of Title 32 of the Code of Federal Regulations, or equivalent regulations applicable to other agencies;~~
- ~~Any other category of employee or applicant excluded by law.~~

~~The City may take an employment action against an applicant for employment that is based on a scientifically valid preemployment drug screening conducted through methods that do not screen for non-psychoactive cannabis metabolites.~~

~~The City may take an employment action against an employee based on the prohibited conduct enumerated in other sections of this policy.~~

~~L. SUBSTANCE ABUSE PROFESSIONAL SERVICES~~

~~On a case-by-case basis, the City may allow an employee the chance to complete substance abuse treatment before evaluating further City actions. The City will advise an employee who engages in conduct prohibited under this Policy of the available resources for evaluation and treatment of drug/alcohol problems, including the names, addresses and telephone numbers of SAPs, counseling, treatment programs or other available services. The City will provide an SAP evaluation to assess employees with drug and/or alcohol problems.~~

~~Each Safety Sensitive Employee who violates these rules must be evaluated to determine whether the employee needs assistance resolving problems associated with drug and/or alcohol, and if necessary, a referral for further treatment.~~

~~Before returning to duty, each employee must: (a) be evaluated again by an SAP to determine whether the employee has successfully complied with the treatment program prescribed following the initial evaluation; (b) undergo a drug and/or alcohol test to satisfy established acceptable results for return to duty; and, (c) be subject to a minimum of six (6) unannounced, follow up drug and/or alcohol tests over the following twelve (12) months.~~

~~The City will only provide an assessment by an SAP. The City has no obligation to provide or pay for further treatment.~~

~~M.~~7. TYPES OF TESTING

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Except as provided otherwise in a Memorandum of Understanding (MOU), the City has discretion to test a current employee or an applicant in the following instances:

~~1.~~a. **Pre-Employment Testing**

~~a.~~• Applicants for a position as are subject to pre-employment drug testing.

~~b.~~• All pre-employment physical examinations will include a urine drug screen. All such examinations will include at least a drug test for the controlled substances listed in Section Q below.

~~c.~~• All job announcements or other promotional material shall specify that drug screening shall be part of the physical examination.

~~d.~~• Only applicants who have been given a job offer conditioned upon passing a physical examination shall be given a drug-screening test.

~~e.~~• All applicants shall be given a copy of this policy at the time of their conditional offer of employment, and shall, as a prerequisite to employment, sign a consent form or forms and submit to pre-employment drug testing. Applicants who do not consent to such testing will not be considered for employment.

~~f.~~• Once the consent form or forms are signed, the pre-employment physical will be conducted and the urine specimen will be collected.

~~g.~~• Any applicant whose drug test does not indicate a verified negative result shall be contacted by the MRO for an interview. The applicant will be given the opportunity at that time to have a split specimen reanalysis performed. If the reanalysis does not indicate a verified negative result, the applicant shall be given an opportunity by the MRO to withdraw his/her application for employment. If, under such circumstances, the applicant does not withdraw his/her application for employment, he/she shall be determined by the physician to be physically unfit for employment, and the determination shall be forwarded to the Personnel Officer who shall disqualify the applicant for employment.

~~h.~~• Results of any laboratory test will be sent to the Personnel Officer.

~~i.~~• If the test results are positive, the City will inform the individual that he/she has not passed the pre-employment physical. The City will not provide further test results information, even if requested, unless required by law.

~~j.~~• No applicant who has received a conditional job offer may begin work prior to employee health approval and will not be allowed to begin work at all if drug use is identified during the employment health screening process.

~~k.~~• Any applicant disqualified for employment pursuant to this policy may reapply after one (1) year from the date of disqualification.

~~l.~~b. **Random Selection and Testing**

Effective January 1, 1995, the Omnibus Transportation Employee Testing Act of

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1991, requires that City employees be tested if they hold a Commercial Driver's License (CDL) (Class A or Class B) and drive a Commercial Motor Vehicle (CMV). In addition, the City requires all Safety Sensitive Employees be covered under this policy. Under this policy, all employees holding CDL's are subject to random selection for the purpose of alcohol and drug testing. The specific classifications of employees subject to random testing are listed below by Random Testing Pool Numbers:

~~a.~~ ~~**Random Pool #1**~~

~~**Position Title**~~	~~**Department**~~
~~Fire Captain~~	~~Fire~~
~~Fire Chief~~	~~Fire~~
~~Fire Engineer~~	~~Fire~~
~~Firefighter~~	~~Fire~~
~~Fire Prevention/Assistant Chief~~	~~Fire~~

~~b~~**b.** **Random Pool #~~2~~1**

Position Title	**Department**

Equipment Maintenance Supervisor	Public Works
Maintenance Worker ~~,~~	Public Works
Mechanic I & II*	Public Work
Street Maintenance Supervisor	Public Works
Street Maintenance Leadworker	Public Works
Water Systems Operator	Public Works

*Any classification required to operate a Commercial Vehicle as part of their job description or in possession Commercial Driver's License (CDL) (Class A or Class B) and drive a Commercial Motor Vehicle (CMV).

c. Random Pool #2~~3~~

Position Title	Department
Police Agent	Police
Police Detective	Police
Police Officer	Police
Police Recruit	Police
Police Sergeant	Police
Police Chief	Police
Police Commander	Police
Public Safety Dispatcher	Police

The following are guidelines for the random testing selection and testing procedures:

a. The number of drug tests conducted annually shall be specified by law.

b. Random alcohol tests shall equal or exceed twenty percent (20%) of employees.

c. Some employees may be tested more than once in a year, while others may not be tested at all, depending on the random selection.

d. An employee shall submit to alcohol or drug testing when selected by a random selection process used by the City.

e. To assure that the process is in fact random, all covered employees, whether or not they have been chosen for testing in the past, will remain in the pool of employees for each subsequent period. This procedure assures that the probability of any individual being selected each period is always

the same, whether or not the individual was selected in a previous period.

f. Covered employees shall be assigned numbers. Under a computerized system, a random number-generating program shall be loaded into a computer along with the names or identification numbers for the covered employees. This list of names will be checked regularly by a third party who is not a City employee for additions or deletions. The computer then generates a list of employees to be tested during the current testing period.

The selection process is repeated until the required numbers of employees are selected. Once the list of test subjects is generated, employees will not be informed that they have been selected until they must report for testing.

Advance notice of testing shall not be given. As in all types of tests, accurate records of the details of testing shall be confidentially maintained.

g. When an employee is selected for random drug testing, his/her Supervisor will ensure his/her duties are performed. The employee will receive a written notice indicating the time he/she is to report to the lab for testing.

h. A random alcohol test will be administered just prior to the employee performing an on-duty function, or just after the employee has stopped performing an on-duty function.

~~h.~~i. Cannabis testing of employees pursuant to this section will be conducted in accordance with all state and federal laws.

~~2.~~c. **Reasonable Suspicion Testing**

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The City requires that an employee be tested, upon reasonable suspicion, for the use of drugs or alcohol when requested by the Supervisor.

The conduct creating the reasonable suspicion must be witnessed by at least one (1) Supervisor or some other competent person.

The documentation of the employee's conduct shall be prepared and signed by the witness(es) who made the determination of reasonable suspicion. Witnesses must document the conduct on the Observed Behavior- Reasonable Suspicion Record Form, available in the Assistant Personnel Officer's office, within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earlier. Other witnesses may be asked to sign the form, as well.

Reasonable Suspicion means that the witness, based on direct, contemporaneous observations of an employee, reasonably believes that the actions, appearance, speech, odors, or conduct of an on-duty employee are indicative of the use of drugs or alcohol. The witness must directly observe the behavior. Hearsay or second-hand information of an employee's behavior is not sufficient cause to

require an employee to submit to a drug test. However, hearsay or second-hand information regarding non-behavioral evidence of drug or alcohol use or possession, such as observing an employee possess or take drugs or possess or drink alcohol may be sufficient. The determination that a reasonable suspicion exists to require an employee to undergo an alcohol test must be based on short-term, specific, objective, contemporaneous, articulable facts concerning the behavior, appearance, speech or odors of the employee.

Alcohol testing may be performed only if the observations upon which reasonable suspicion are based are made during, just preceding or just after the period of the work day that the employee is required to be in compliance. An employee may be directed to undergo a reasonable suspicion alcohol test just before, during or just after performing on-duty functions.

If an alcohol test is not administered within two (2) hours following a reasonable suspicion determination, the Supervisor shall document the reasons for the delay. An alcohol test must be administered within eight (8) hours of a reasonable suspicion determination.

If an alcohol test indicates a positive result, the employee must not be permitted to perform any on-duty functions until twenty- four (24) hours have elapsed following the determination of reasonable suspicion.

Once a reasonable suspicion determination is made, the Supervisor shall assure that the employee under suspicion is evaluated, and when necessary, transported to a specimen collection site to provide a urine sample.

The employee tested for reasonable suspicion must be placed on paid administrative leave until the test results are received from the MRO.

~~3.~~d. **Post Accident Testing** Formatted

As soon as practicable after an accident, alcohol and/or drug tests may be administered. The following criteria will be applied in conducting a drug/alcohol test after an accident:

~~a.~~• The employee may be required to submit to a drug/alcohol test when required by his or her Supervisor or competent City authority. Formatted

~~b.~~• A post-accident, controlled drug test must be administered within thirty- two (32) hours following the accident. If the test is not administered, the Supervisor must record why the test was not administered. Formatted

~~c.~~• An employee subject to post-accident testing may not use alcohol prior to an alcohol test. Formatted

~~d.~~• Prior to operating a City vehicle, post-accident information, procedures and instruction shall be provided to every employee. Post-accident information, procedures, and instruction will also be posted in every City vehicle. Formatted

~~4.~~8. **Return-To-Duty Testing**

Employees who violate the drug/alcohol policy and are accepted into return-to-duty and follow-up status will comply with the following:

a. Submit to a drug and alcohol test. The test must indicate a negative testing for drugs and an alcohol concentration of less than 0.02 before the employee is allowed to return to duty.

b. If previously identified by the SAP as needing assistance, the employee must return to the SAP for further assessment.

~~5.~~9. **Follow-Up Testing**

Employees who violate the drug/alcohol policy and are accepted into return-to-duty and follow-up status will comply with the following:

a. Upon returning to duty, the employee will be subject to a minimum of six (6) unannounced tests over the following twelve (12) months. The SAP can direct additional testing during this period or for an additional period up to a maximum of sixty (60) months from the date the employee returns to duty. The SAP can terminate the requirement for the follow-up testing in excess of minimum at any time, if the SAP determines that the testing is no longer necessary and is supported by the Supervisor.

b. Follow-up testing may include tests for other substances beyond the employee's initial positive test of alcohol and/or drug when the SAP has reason to suspect other drug or alcohol use during the follow-up period.

c. Follow-up testing shall be separate from participation in the random testing selection procedures.

~~N.~~10. **PRE-TESTING PROCEDURES** Formatted

~~1.~~a. **Reasonable Suspicion and Post-Accident Testing Procedures** Formatted

Upon determining that 1) reasonable suspicion exists to conduct a drug or alcohol test of an employee or 2) a post-accident test is necessary:

~~a.~~• The Supervisor should personally escort the employee to an office or other private area. The Supervisor should have another Supervisor or other reliable employee present as a witness, if possible. Formatted

~~b.~~• The Supervisor should explain to the employee the reasons for suspecting drug and/or alcohol policy violations and document the reasons for suspected drug and/or alcohol policy violations in writing~~The Supervisor should explain to the employee the reasons for suspecting drug and/or~~ Formatted

~~alcohol policy violations and use the Reasonable Suspicion Record to question and document information from the employee. The Supervisor should complete this form and determine through conversation with the employee, whether the employee has consumed drugs and/or alcohol on City premises or during work and is under the influence, or whether the employee's off-duty abuse of drugs and/or alcohol has resulted in work-related problems~~.

~~e. If the employee does not appear to be under the influence of drugs and/or alcohol, and the employee is able to return to work safely and perform regular work duties, the Supervisor should have him/her return to the work unit and resume work.~~

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~~d.~~ If the Supervisor reasonably suspects that the employee is under the influence of drugs and/or alcohol, or has consumed drugs and/or alcohol on City premises or during work duty, the Supervisor should advise the employee that the provisions of this policy may have been violated and that he/she is being requested to submit to a drug and/or alcohol test in accordance with this policy.

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~~e.~~ The Supervisor shall have the employee complete a consent to testing form. The Supervisor shall advise the employee that refusal to sign the form or give a specimen at the testing facility will be treated as a refusal to obey and direct request and will constitute an admission that suspicion is reasonable and may be grounds for discipline, up to and including termination.

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~~f.~~ The Supervisor shall then escort the employee, with another Supervisor or reliable employee, if possible, to the City-approved drug/alcohol testing site. The employee shall not be permitted to drive himself/herself to the testing facility.

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~~g. The Supervisor shall require the employee to read and sign a chain-of-custody form available at the testing location, agreeing to the drug and/or alcohol test.~~

~~h. The alcohol and/or drug test shall be performed according to the procedures set forth in Section Q, below.~~

~~i. Once the specimen is taken and initialed by the employee, the employee should be placed on paid administrative leave pending the test results and a review of the circumstances.~~

~~j. If the Supervisor reasonably believes that the employee is impaired, the Supervisor should have the employee make arrangements to gain a ride home. The Supervisor shall not give the employee permission to leave the premises or drive alone.~~

~~2.~~b. **Pre-Employment; Random; Return to Duty; and Follow-Up Testing**

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If the drug and/or alcohol test requested is a pre-employment or random test or is a return to duty or follow-up test, the employee should report to the testing facility

as ordered and follow the procedures for testing set forth in Section Q, below.

~~O.~~11. CLASSES OF TESTING

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~~1.~~a. Drug Testing

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Drug testing shall be performed using the standards approved by the United States Department of Transportation (DOT). Unless otherwise specified in an applicable MOU, urine collection shall be conducted in accordance with the DOT's Urine Specimen Collection Guidelines pursuant to 49 CFR Part 40. Said guidelines are available for review by any employee. If an employee wishes to review the collection guidelines, he/she shall contact the Assistant Personnel Officer to make arrangements. Urine specimens shall be analyzed for any or all of the following drugs:

- Marijuana Metabolites
- Cocaine Metabolites
- Phencyclidine (PCP)
- Amphetamines
- Opiate metabolites

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- Hydrocodone/hydromorphone
- Oxycodone/oxymorphone
- MDMA/MDA

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- ~~Methaqualone~~
- ~~Propoxyphene~~
- ~~Methadone~~
- ~~Benzodiazepines~~
- ~~Barbituates~~
- ~~Heroin~~

The testing for use of drugs is a two-stage process. First, a screening test is performed. If the screening test is positive for one or more drugs, then a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive drugs. The screening and confirmatory levels are as follows:

Type of Drug or Metabolite	Screening Test Concentration (ng/ml)	Confirmation Test Concentration (ng/ml)

(1) Marijuana metabolites (i) Delta-9-tetrahydrocanna-binol -9-carboxylic acid (THC)	50	15
(2) Cocaine metabolites (Benzoylecgonine)	~~300~~150	~~150~~100
(3) Phencyclidine (PCP)	25	25
(4) Amphetamines (i) Amphetamine (ii) Methamphetamine	~~1000~~500 500 500	~~500~~250 250 ~~500~~250 Specimen must also contain amphetamine at a concentration of greater than or equal to 200 ng/ml.

Type of Drug or Metabolite	Screening Test Concentration (ng/ml)	Confirmation Test Concentration (ng/ml)
(5) Opiate metabolites	2000	
(i) Codeine	2000	2000
(ii) Morphine	2000	2000
(iii)6-acetylmorphine	10	10 ~~Test for 6-AM in the specimen. Conduct this test only when specimen contains morphine at a concentration greater than or equal to 2000 ng/ml.~~
(6) ~~Methaqualone (quaaludes)~~Hydrocodone/hydrom	~~300~~100	~~200~~100
(7) ~~Propoxyphene (darvon)~~Oxycodone/Oxymorpho	~~300~~100	~~200~~100
~~(8) Methadone~~	~~300~~	~~200~~
(9) ~~Benzodiazepines (valium~~MDMA/MDA)	~~300~~500	~~200~~250
~~(10) Barbiturates~~	~~300~~	~~300~~
~~(11) Heroin~~	~~2000~~	~~2000~~

~~2.~~b. **Alcohol Testing**

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Breath testing for alcohol use shall be performed using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration (NHTSA).

Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.01 alcohol concentration is considered a "negative" test.

If the alcohol concentration is 0.01 or greater, a confirmation test is conducted. The employee and the breath alcohol technician (BAT) conducting the breath test complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test results determine any actions taken.

~~**3. Drug and Alcohol Testing for Non-Safety Sensitive Employees**~~

~~The City does not discriminate against an employee or applicant for employment based on either the employee or the applicant's off duty use of marijuana away from the workplace, or a drug test result which indicates the presence of non-psychoactive cannabis metabolites in the employee or applicant's hair, blood, urine, or other bodily fluids. Consistent with this policy of non-discrimination, employees who do not hold a Safety Sensitive position will not be tested for non-psychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.~~

D. NON-DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL POLICY

1. APPLICABILITY

Sub-section (CB) of Policy 2.5 applies to all City employees, regardless of their organizational unit, except employees whose employment is subject to Department of Transportation (DOT) regulations, when they are on City property or performing City-related business.

Each employee will be provided a copy of this Policy and will be required to review, abide by, and sign a statement agreeing that they have received and read a copy of this Policy, and that their questions have been satisfactorily answered by their Supervisor.

ANY QUESTIONS REGARDING THE WORKPLACE SAFETY FROM SUBSTANCE ABUSE POLICY MAY BE DIRECTED TO THE PERSONNEL OFFICER.

1. DEFINITIONS

Controlled Substance: Any drug that is classified by the Drug Enforcement Administration into the five schedules or classes on the basis of their potential for abuse, accepted use, and accepted safety under mediation supervision. The presence of a drug on any of these schedules identifies that it is "controlled" and determines the nature of the supervisory control that must be exercised. "Controlled substance" includes, but is not limited to: narcotics, depressants, stimulants, and hallucinogens.

Drugs: See Controlled Substance. As used in this sub-section of the Policy, the term "drug" does not include cannabis or marijuana.

2. PROHIBITED ACTS

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The following acts are prohibited and may result in discipline, up to and including discharge:

a. Reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions while having an alcohol concentration level of 0.02 or greater;

b. Reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions while possessing alcohol;

c. Consuming alcohol while reporting for duty, remaining on duty, operating City vehicles or equipment, or performing on-duty functions;

d. Reporting for duty, remaining on duty, or performing on-duty functions when under the influence of, using or possessing any drugs (including marijuana or cannabis), except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate vehicles or equipment or perform their job duties;

e. Testing positive for drug use while reporting for duty, remaining on duty, or performing on-duty functions;

f. Refusing to submit to any alcohol or drug test required by this policy. An employee who refuses to submit to a required drug or alcohol test will be treated in the same manner as an employee who receives a Positive Test;

g. Using alcohol or drugs within eight (8) hours after an incident or until tested for the presence of drugs or alcohol in the employee's system. If a Supervisor releases the employee from the scene before eight (8) hours after the incident or the employee is tested, the Supervisor must remind the employee of the prohibition from using alcohol or drugs within eight (8) hours after an accident or until tested;

h. The possession, transportation, distribution, receipt, sale, purchase, or arranging for the sale, purchase, or distribution of drugs (including marijuana or cannabis) or alcohol, including medicines containing alcohol (prescription or over-the-counter), while on duty, unless, with respect to medicines, the packaging seal is unbroken, or a competent physician has approved on-duty use.

Limited exceptions to this paragraph may be approved, on a case-by-case basis, based on direction from a Supervisor, such as transportation of evidence, police operations, or clean-up of Community Center activities.

i. Failure to report to Supervisor any therapeutic drug use that an employee has been advised by a competent physician could interfere with the performance of their job duties

j. Inappropriate use of prescribed drugs or use of prescribed drugs in a manner inconsistent with instruction from a Licensed Medical Practitioner.

k. Use of prescribed drugs which may cause significant impairment or create a safety hazard on the job without reasonable prior notification to a supervisor.

Use of prescribed drugs in the manner for which they were prescribed does not violate the City's policy. Use of medically prescribed drugs or over-the-counter drugs is not a violation of this policy if directions are followed properly, no abuse is present, and the employee's ability to perform his/her job is not impaired. As set forth in this policy, an employee must notify his/her Supervisor before beginning work when taking prescription drugs or over-the-counter drugs that a qualified medical professional has advised may interfere with the safe and effective performance of the employee's duties.

3. REFUSAL TO CONSENT OR SUBMIT

Before a drug or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those City representatives with a need to know the test results. The consent form shall provide a space for employees and applicants to acknowledge that they have been notified of the City's drug testing policy.

An applicant who refuses to consent or submit to a drug test will be disqualified from employment with the City.

An employee's refusal to consent or submit to drug and alcohol testing in the circumstances outlined in this policy will be treated in the same manner as an employee who tested 0.02 or greater on an alcohol test or tested positively on a drug test. This may result in disciplinary action, up to and including termination.

Where there is a reasonable suspicion that the employee is under the influence of alcohol or drugs, the employee, Managers or Supervisor shall arrange for the employee to be transported home. The employee shall not transport himself/herself home.

A refusal to consent or submit to an alcohol or drug test required by this policy includes, but is not limited to:

- A refusal to sign a consent form;
- A refusal to provide a urine sample for a drug test;
- An inability to provide a urine sample without a valid medical explanation;
- A refusal to complete and sign the breath alcohol testing form or otherwise to cooperate with the testing process in a way that prevents the

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completion of the test;

- A failure to provide an adequate amount of breath for an alcohol test without a valid medical explanation;
- Tampering with or attempting to adulterate a urine specimen;
- Interfering with or tampering with collection procedures;
- Not reporting to the collection site in the time allotted by the Supervisor or Managers who directs the employee to be tested;
- Leaving the scene of an accident without a valid reason or authorization from a Supervisor or Managers;
- Consuming alcohol during the eight (8) hours immediately following an accident, unless the employee has been tested. If a Supervisor releases the employee from the scene before eight (8) hours after the accident or before the employee is tested, he/she is to remind the employee of the prohibition from using drugs or alcohol within eight (8) hours after the accident or until tested.

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4. CONSEQUENCES FOR VIOLATION OF POLICY

An employee who is suspected of violating any of the prohibited acts listed in this policy may be immediately relieved of duties and placed on paid administrative leave until the results of the drug or alcohol test are confirmed. An employee who is found to have violated any of the prohibited acts listed in this policy may be immediately relieved of duties and placed on unpaid status after completion of any applicable administrative appeal process as outlined in the City's Personnel Policies and Procedures or the applicable MOU. Employees on unpaid status may use available sick leave or vacation time.

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination, according to the City's Personnel Policies and Procedures and any applicable MOU.

5. TYPES OF TESTING

Except as provided otherwise in a Memorandum of Understanding (MOU), the City has discretion to test a current employee upon reasonable suspicion, for the use of drugs or alcohol when requested by the Supervisor.

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The conduct creating the reasonable suspicion must be witnessed by at least one (1) Supervisor or some other competent person.

The documentation of the employee's conduct shall be prepared and signed by the

witness(es) who made the determination of reasonable suspicion. Witnesses must document the conduct on the Observed Behavior- Reasonable Suspicion Record Form, available in the Assistant Personnel Officer's office, within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earlier. Other witnesses may be asked to sign the form, as well.

Reasonable Suspicion means that the witness, based on direct, contemporaneous observations of an employee, reasonably believes that the actions, appearance, speech, odors, or conduct of an on-duty employee are indicative of the use of drugs or alcohol. The witness must directly observe the behavior. Hearsay or second-hand information of an employee's behavior is not sufficient cause to require an employee to submit to a drug test. However, hearsay or second-hand information regarding non-behavioral evidence of drug or alcohol use or possession, such as observing an employee possess or take drugs or possess or drink alcohol may be sufficient. The determination that a reasonable suspicion exists to require an employee to undergo an alcohol test must be based on short-term, specific, objective, contemporaneous, articulable facts concerning the behavior, appearance, speech or odors of the employee.

Alcohol testing may be performed only if the observations upon which reasonable suspicion are based are made during, just preceding or just after the period of the work day that the employee is required to be in compliance. An employee may be directed to undergo a reasonable suspicion alcohol test just before, during or just after performing on-duty functions.

If an alcohol test is not administered within two (2) hours following a reasonable suspicion determination, the Supervisor shall document the reasons for the delay. An alcohol test must be administered within eight (8) hours of a reasonable suspicion determination.

If an alcohol test indicates a positive result, the employee must not be permitted to perform any on-duty functions until twenty- four (24) hours have elapsed following the determination of reasonable suspicion.

Once a reasonable suspicion determination is made, the Supervisor shall assure that the employee under suspicion is evaluated, and when necessary, transported to a specimen collection site to provide a urine sample.

The employee tested for reasonable suspicion must be placed on paid administrative leave until the test results are received from the MRO.

~~a. **Post Accident Testing**~~

~~As soon as practicable after an accident, alcohol and/or drug tests may be administered. The following criteria will be applied in conducting a drug/alcohol test after an accident:~~

~~• The employee may be required to submit to a drug/alcohol test when~~

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required by his or her Supervisor or competent City authority.

- A post-accident, controlled drug test must be administered within thirty-two (32) hours following the accident. If the test is not administered, the Supervisor must record why the test was not administered.

- An employee subject to post-accident testing may not use alcohol prior to an alcohol test.

- Prior to operating a City vehicle, post-accident information, procedures and instruction shall be provided to every employee. Post-accident information, procedures, and instruction will also be posted in every City vehicle.

6. PRE-TESTING PROCEDURES

Upon determining that reasonable suspicion exists to conduct a drug or alcohol test of an employee:

- The Supervisor should personally escort the employee to an office or other private area. The Supervisor should have another Supervisor or other reliable employee present as a witness, if possible.

- The Supervisor should explain to the employee the reasons for suspecting drug and/or alcohol policy violations and document the reasons for suspected drug and/or alcohol policy violations in writing.

- If the Supervisor reasonably suspects that the employee is under the influence of drugs and/or alcohol, or has consumed drugs and/or alcohol on City premises or during work duty, the Supervisor should advise the employee that the provisions of this policy may have been violated and that he/she is being requested to submit to a drug and/or alcohol test in accordance with this policy.

- The Supervisor shall have the employee complete a consent to testing form. The Supervisor shall advise the employee that refusal to sign the form or give a specimen at the testing facility will be treated as a refusal to obey and direct request and will constitute an admission that suspicion is reasonable and may be grounds for discipline, up to and including termination.

- The Supervisor shall then escort the employee, with another Supervisor or reliable employee, if possible, to the City-approved drug/alcohol testing site. The employee shall not be permitted to drive himself/herself to the testing facility.

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7. CLASSES OF TESTING

a. Drug Testing

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Drug tests of employees covered by this sub-section of the Policy Drug testing shall be performed using the standards approved by the United States Department of Transportation (DOT), with the exception of testing for marijuana. Unless otherwise specified in an applicable MOU, urine collection shall be conducted in accordance with the DOT's Urine Specimen Collection Guidelines pursuant to 49 CFR Part 40, with the exception of testing for marijuana.

b. **Alcohol Testing**

Breath testing for alcohol use shall be performed using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration (NHTSA).

Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test.

If the alcohol concentration is 0.02 or greater, a confirmation test is conducted. The employee and the breath alcohol technician (BAT) conducting the breath test complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test results determine any actions taken.

B. OTHER PROVISIONS

1. NOTIFICATION OF ARREST OR CONVICTION

Each employee is required to notify the City in writing within five (5) calendar days of any arrest or conviction involving drugs or alcohol for a violation occurring in the workplace or outside of the workplace.

The City may be required to notify state or federal agencies from which the City receives grants or loans in writing within ten (10) calendar days after receiving a notice from an employee or otherwise receiving actual notice of a conviction for a violation which occurred at a site where City-related business was being performed. The City may be required to take one of the following actions within thirty (30) calendar days after receiving notice with respect to any employee who is so convicted:

- Taking appropriate disciplinary action against such an employee, up to and including termination; or
- Requiring such employee to participate satisfactorily in a drug or alcohol abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency, and to provide proof of satisfactory participation.

2. INSPECTIONS

The City reserves the right to search, without employee consent, all areas and property over which the City maintains full or joint control with the employee for the purposes of detecting alcohol or illegal drugs or substances. City property may be monitored and searched at any time and for any reason. Employees have no reasonable expectation of privacy in any City property, building, or communications system. These searches will be conducted in conformance with applicable law.

Personal items within City controlled or jointly controlled areas, including and not limited to briefcases, backpacks, clothing, plastic containers, or other containers such as drawers may be searched under the jurisdiction of this policy. The City may notify the appropriate law enforcement agency to conduct a search of an employee's personal items if it is believed that an employee may have illegal drugs in his or her possession. All searches will be conducted in conformance with applicable law, including but not limited to the California Public Safety Officers Procedural Bill of Rights Act and the California Firefighters Bill of Rights.

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3. RECORD-KEEPING

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The City will keep the following records for the periods specified. These records will be under the control of the Program Administrator or designee:

a. Results of an employee's alcohol test which indicates a Positive Test; results of an employee's drug test which indicates a Positive Test; documentation of any employee who refused to submit to a required alcohol/drug test; calibration documentation; employee assessments and referrals by an SAP. Minimum retention period: 5 years.

b. Records documenting the collection process for an alcohol and drug test and training of Supervisors. Minimum retention period: 2 years.

c. Results of any alcohol test that indicates a Negative Test or a canceled drug test;. Minimum retention period: 1 year.

~~Records related to the education and training of screening test technicians, Supervisors and drivers, while the individual performs the functions Minimum retention period: Indefinite.~~

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4. DISCIPLINE FOR WORK-RELATED PROBLEMS

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The City may, it its sole discretion, impose administrative/disciplinary measures, up to and including termination, upon employees for rule violations and work-related problems separate and apart from violations of the alcohol/drug policy and even if such rule violations or work-related problems result from alcohol/drug abuse.

5. CONFIDENTIALITY

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a. Confidentiality is an essential element of this policy. Any employee violating this confidentiality shall be subject to discipline and may also be civilly or criminally liable.

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b. All records pertaining to drug and alcohol testing of an employee shall be contained in a separate confidential medical file that will be securely kept under the control of the Program Administrator, separate from the employee's other personnel records.

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c. Absent the employee's consent, test results may be disclosed only to City management and only on a strictly need-to-know basis. Test results will be disclosed to the employee upon request.

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d. The City may disclose test results without the employee's consent only when:

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- The information is compelled by law or by judicial or administrative process;

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- The information has been placed at issue by the employee in a formal dispute between the employee and the City;

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- The information is necessary to administer an employee benefit plan; or

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- The information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure.

e. Any positive test results, which are later refuted shall be removed from the employee's file, and not used for any purpose, unless required by law.

6. NON-DISCRIMINATION REGARDING THE USE OF OFF-DUTY CANNABIS IN CERTAIN CIRCUMSTANCES

The City does not discriminate against, nor will it take any adverse employment action, against an employee or applicant for employment based on either the employee or the applicant's off-duty use of marijuana away from the workplace, or a drug test result which indicates the presence of non-psychoactive cannabis metabolites in the employee or applicant's hair, blood, urine, or other bodily fluids.

Groups excepted from this provision are:

- Employees or applicants for employment who are in the building and construction trades;
- Employees or applications for employment who are subject to either state or federal law or regulation that requires drug testing (*e.g.*, DOT rule 49 C.F.R. part 40);
- Employees or applicants for employment who are hired for positions that require a federal government background investigation or security clearance in accordance with regulations issue by the United States Department of Defense pursuant to Part 117 of Title 32 of the Code of Federal Regulations, or equivalent regulations applicable to other agencies;
- Any other category of employee or applicant excluded by law.

The City may take an employment action against an applicant for employment that is based on a scientifically valid preemployment drug screening conducted through methods that do not screen for non-psychoactive cannabis metabolites.

The City may take an employment action against an employee based on the prohibited conduct enumerated in other sections of this policy.

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6.1 Eligibility for Benefits

PURPOSE

To establish guidelines and definitions for entitlement to benefits.

STATEMENT OF POLICY

Benefits are provided to employees at the discretion of the City of Santa Paula ("City"). Entitlement to benefits at differing levels is based on type of employment and the terms of individual memoranda of understanding with labor unions.

A. BENEFITS AVAILABLE TO REGULAR FULL-TIME EMPLOYEES

Employees classified as regular full-time employees in the City's classification plan shall receive the City's full benefits package as defined by the appropriate employment agreement between the City and each employee unit.

B. BENEFITS AVAILABLE TO PART-TIME EMPLOYEES

Part-time employees assigned to work more than thirty-two (32) hours, but less than forty (40) hours per week per week on a regular schedule will be eligible for cafeteria benefits, vacation and sick leave accruals, and holiday hours on a pro-rated basis. Cafeteria benefits will be prorated based on the lowest cafeteria plan, whereas, leave accruals will be prorated based on the employee's continuous years of service as follows:

HOURS PER WEEK	(BI-WEEKLY ACCRUALS)
40	100%
39	97.5%
38	95%
37	92.5%
36	90%
35	87.5%
34	85%
33	82.5%
32	80%

Temporary, seasonal and/or part-time employees working less than thirty-two (32) hours per week are not eligible to receive City Benefits.

Temporary and Part-time employees shall be enrolled into the City's PERS Retirement System if they work more than nine-hundred ninety-nine (999) hours per year.

C. BENEFITS AVAILABLE TO ACTING/INTERIM APPOINTMENTS

Employees in an Acting Appointment are temporarily provided benefits normally associated with the position to which they are temporarily appointed. Employees in an Interim Appointment are to be provided benefits normally associated with the position to which they are appointed on an interim basis or compensation in lieu of benefits, as defined in the contract.

D. BENEFITS AVAILABLE UPON TRANSFERS OR PROMOTIONS

If the position to which an employee has been transferred or promoted carries benefits different from those of the previous position, the person becomes eligible for the benefits of the new position beginning the date of the transfer or promotion.

E. BENEFITS ON TERMINATION OR RETIREMENT

Benefits terminate upon date of termination, subject to effective dates of payments; continuations of certain benefits are subject to the laws regulating COBRA.

F. BENEFITS ON UNPAID LEAVE

The City provides benefits only during paid employment. If an employee is on unpaid leave, the employee is responsible for paying a prorated share of the City's cost of any benefits that are continued at the employee's request. This policy is not intended to impact any rights regarding benefits that an employee has while the employee is on unpaid leave under the protection of the FMLA or CFRA.

7.2 Holiday Leave

PURPOSE

To provide a policy for uniform administration of standard City of Santa Paula ("City") holidays.

STATEMENT OF POLICY

Full-time, Part-time, regular and interim employees are entitled, from first date of hire, to the use of holiday leave according to guidelines outlined in this policy.

A. GENERAL PROVISIONS

The City shall celebrate twelve (12) holidays off with pay for regular and interim fulltime employees:

NEW YEAR'S DAY	January 1
MARTIN LUTHER KING DAY	3rd Monday in January
PRESIDENT'S DAY	3rd Monday of February
MEMORIAL DAY	Last Monday of May
INDEPENDENCE DAY	July 4
LABOR DAY	1st Monday of September
VETERAN'S DAY	November 11
THANKSGIVING DAY	4th Thursday of November
DAY AFTER THANKSGIVING	5th Friday of November
CHRISTMAS DAY	December 25
FLOATING HOLIDAY	Two (2) days at employee's choice upon approval of Department Head.

Represented employees shall refer to his or her established Memorandum of Understanding for additional holidays with pay.

Part-time employees assigned to work more than thirty-two (32) hours, but less than forty (40) hours per week per week on a regular schedule will be eligible for holiday hours on a pro-rated basis. Temporary, seasonal and/or part-time employees working less than thirty-two (32) hours per week are not eligible for paid holidays.

In the event a holiday ~~other than a floating holiday~~ falls upon a Sunday, the following Monday shall be deemed to be the legal holiday. In the event the legal holiday falls on a Saturday, the preceding Friday shall be deemed to be the legal holiday.

When a non-exempt employee is required to work on a holiday or when the holiday falls on an employee's regular day off, he/she shall have the option of (1) receiving straight time payment for that day, or (2) not receiving any payment for the work performed on the holiday, and selecting another day as holiday leave with pay during the calendar year with the consent of the Department Head.

When a holiday falls on an off Friday for employees observing a 9/80 schedule, the holiday shall be observed on the Thursday immediately preceding the off Friday.

If holidays fall on both the off Friday and the Thursday preceding the off Friday, the holiday shall be observed on the Wednesday immediately preceding the off Friday.

Employees not in a pay status, excluding disciplinary action, on the day preceding a holiday shall not receive the benefit of a paid holiday.

When a recognized City holiday falls within an employee's bona fide use of sick leave for which he/she normally would have been excused from work or while the employee is on leave due to a worker's comp related injury, that day shall not be charged to any other form of leave except a holiday. City recognized holidays may not be banked while an employee is off work due to illness and/or injury.

When a holiday falls within a period of paid leave, the holiday shall not be counted as a leave day in computing the amount of leave used.

An employee who is absent without prior written approval leave on the day immediately preceding or following a holiday shall lose the holiday as well as pay for that day.

All part-time employees will receive double-time pay for the hours they are assigned and actually work on a recognized City holiday. Such employees shall receive this doubletime holiday pay only for those hours assigned and actually worked, and shall not exceed eight (8) hours.

B. FLOATING HOLIDAY(S)

The floating holidays may be taken at any time during the calendar year with the prior approval of the employee's Department Head. Floating holiday is earned at the rate of one day for six (6) months or less of service in the calendar year or two (2) days for more than six months service. The floating holidays may not be accumulated and carried forward to the next calendar year.

All requests and approvals for use of a floating holiday are to be properly completed including original signatures, on forms provided by the Personnel Office. Approval must be gained prior to the commencement of the requested use. Completed forms are to be forwarded to the Personnel Office after being utilized by the Supervisor to verify time sheets.

Floating holidays should be recorded on the employee time sheet under the holiday section with a special notation it is to be recorded as a floating holiday.

C. ACCOUNTING FOR HOLIDAYS

Holiday pay will be counted in eight (8) hour increments if the employee is working on a 8/40 schedule; nine (9) hour increments if the employee is working on a 9/80 schedule; ~~and~~ ten (10) hour increments if the employee is working on a 10/40 schedule; and twelve (12) hour increments if the employee is working on a 3/12 schedule. ~~The Assistant to the City Manager or his/her designee will make determinations on a case-by-case basis to ensure that employees on alternate work schedules are not adversely affected by the manner~~ in which holidays are accounted.

D. PROCEDURE

All employees are expected to utilize earned leave for the purpose for which it is designated. Leave time is not designated for banking or payout purposes. The City has the obligation to provide reasonable opportunity for the employee's use of the leave time. Unused holidays have no cash value and are not paid to terminating employees.

7.7 Medical Leave

PURPOSE

To establish a policy and guidelines for the use of Family or Medical Leave for City of Santa Paula ("City") employees.

STATEMENTS OF POLICY

In accordance with the FMLA, CFRA, and the California Pregnancy Disability Leave (PDL), the City will provide such leaves of absences for eligible employees, as defined. Where FMLA leave qualifies as both Military Caregiver Leave and care of a family member with a serious health condition, the leave will be designated as military caregiver leave first.

A. DEFINITIONS

1. Child: A biological, adopted or foster child; a stepchild; a legal ward; or a child of an employee who stands in loco parentis to that child, who is either:

   a. under eighteen (18) years of age; or

   b. an adult dependent child; or

   c. eighteen (18) years of age or older who is incapable of self-care because of mental or physical disability.

   A child is "incapable of self care" if he/she requires active assistance or supervision to provide daily self care in three or more of the activities of daily living or instrumental activities of daily living – such as, caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones, and directories, etc.

   d. For Military Caregiver Leave and Qualifying Exigency Leave, an employee's child may be of any age.

2. Domestic Partner: A person who has filed a Declaration of Domestic Partnership with the California Secretary of State and who meets the requirements provided in California Family Code section 297.

3. Parent: The biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.

4. Spouse: A husband or wife as defined or recognized under California State law for purposes of marriage.

5. "Next of Kin", for purposes of Military Caregiver Leave: A servicemember's nearest blood relative, other than the military member's spouse, parent, child, or order of priority:

   a. All blood relatives who have been granted legal custody of the military member.

   b. All brothers and sisters.

   c. All grandparents.

   d. All aunts and uncles.

   e. All first cousins.

6. Veteran, for purposes of Military Caregiver Leave: Discharged under conditions other than dishonorable within the five-year period before the employee first takes military caregiver leave.

~~5.~~7. Health Care Provider:

   a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;

   b. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treat or supervise treatment of a serious health condition;

c. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;

d. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law; or

e. Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

~~6.~~8. Serious Health Condition: An illness, injury (including on-the-job injury), impairment, or physical or mental condition of the employee; or a child, parent, spouse, or domestic partner of the employee which involves one of the following:

a. impatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential health care facility;

b. a period of incapacity of more than three (3) consecutive days that involves treatment two (2) or more times by a health care provider or a regimen of continuing treatment;

c. any period of incapacity due to pregnancy or for prenatal care;

d. a chronic condition that requires periodic treatment by a health care provider and continues over an extended period of time;

e. a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or

f. any period of absence to receive multiple treatments, including the recovery therefrom.

9. Twelve (12) Month Period for FMLA/CFRA: The twelve (12) month period immediately preceding the first day of an employee's FMLA/CFRA leave.

10. Twelve (12) Month Period for Military Caregiver Leave: The single twelve (12) month period begins on the first day the employee takes leave for this reason and ends twelve (12) months later.

B. ELIGIBILITY

An employee is eligible for leave if the employee:

1. Has been employed for at least twelve (12) months; and

2. Has been employed for at least one-thousand two-hundred fifty (1,250) hours during the twelve (12) month period immediately preceding the commencement of the leave.

C. QUALIFYING EVENTS

Eligible employees may be entitled to unpaid leave for the following reasons:

1. The birth of a child or to care for a newborn of an employee;

2. The placement of a child with an employee in connection with the adoption or foster care of a child;

3. Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition; or

4. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position.

5. Leave because of a qualifying exigency while the employee's spouse, child or parent is on active duty or is called to covered active duty status, or has been notified of an impending call or order to covered active duty, under 29 CFR § 825.126, referred to in this policy as "Qualifying Exigency Leave":

   a. Short notice deployment. Leave taken when an employee's military family member is notified of a deployment in seven or fewer days before the date of deployment, the employee may use leave of any issue that arises from the short-notice deployment (limited to seven calendar days from date notified of deployment).

   b. Military events and related activities. Leave may be taken to attend military events and related activities, such as official ceremonies and events sponsored by the military related to the call to active duty, or to attend support or assistance programs or information briefings.

   c. Childcare and school activities. Leave may be taken to arrange for alternative childcare, to provide childcare on a non-routine, urgent, immediate need basis, to enroll in or transfer to a new school or daycare facility, or to attend school meetings necessitated by the call to active duty.

d. Financial and legal arrangement. Leave may be taken to make or update financial or legal arrangements to address the military member's absence while on call to or covered active duty status, such as a will or legal trust, powers of attorney, transferring bank account signature authority or obtaining military identification cards.

e. Counseling. Leave may be taken to attend counseling provided by someone other than a health care provider for oneself, the military member, or child of a military member (including biological child, foster child, stepchild or legal ward) related to the call to or covered active duty status of the military member.

f. Rest and recuperation. Leave may be taken (up to 15 calendar days) to spend time with a military member who is on short-term, temporary rest and recuperation leave during deployment.

g. Post-deployment activities. Leave may be taken for certain post-deployment activities within 90 days of the end of the military member's covered active duty, such as arrival ceremonies, reintegration briefings and events, and other official ceremony or program for up to 90 days following the termination of the military members covered active duty status.

h. Care of the military member's parent. Leave may be taken to care for the parent of a military member who is incapable of self-care

i. Additional activities. Leave may be taken to address other events that arise out of the military member's call to or covered active duty status, provided that an employer and employee agree that such leave shall qualify as an exigency.

6. Leave to care for an employee's child, parent, spouse, or 'next of kin" who is a current service member of the Armed Forces (including a member of the National Guard or Reserves), or a veteran of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, is in outpatient status through the Armed Forces, or is otherwise on the temporary disability retired list, for a serious injury or illness, referred to in this policy as "Military Caregiver Leave.'

D. AMOUNT OF LEAVE

Eligible employees are entitled up to ~~to a total of~~ twelve (12) workweeks of unpaid leave during any twelve (12) month period for qualifying family and medical reasons, or twenty-six (26) workweeks of unpaid military caregiver leave to provide care for a current service member or a veteran. In certain circumstances, an employee who uses part or all of his/her leave to care for a domestic partner may be entitled to more than twelve (12) workweeks of leave.

1. **Minimum Duration of Leave**

If leave is requested for the birth, adoption, or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one (1) day, but no less than two (2) weeks duration of any two (2) occasions.

If leave is requested to care for a child, parent, spouse, or domestic partner of the employee with a serious health condition, there is no minimum amount of leave that must be taken. However, the employee must comply with the notice and medical certification provisions of this policy.

An employee's entitlement to leave for the birth or placement of a child for adoption or foster care expires twelve (12) months after the birth or placement.

Leave provided under State Workers' Compensation laws are excluded from this policy.

2. **Pregnancy Disability Leave (PDL)**

If an employee is disabled by pregnancy, childbirth or a pregnancy related medical conditions, the employee is entitled to take a pregnancy disability leave of up to four (4) months, (or eighty-eight (88) workdays for a full-time employee) depending on the period(s) of actual disability per pregnancy. If an employee is CFRA-eligible, the employee may have certain rights to take both pregnancy disability leave and a CFRA leave after the birth of the child.

If an employee elects to take medical leave because of a disability due to pregnancy, such leave runs concurrently with her pregnancy disability leave rights.

If you are affected by pregnancy or a related medical condition, you are also eligible for consideration to transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties if this transfer is medically advisable, and such transfer can be reasonably accommodated by the City.

Pregnancy disability leave does not need to be taken in one continuous period of time but can be taken on an as-needed basis. If pregnancy disability leave is taken on an intermittent or reduced schedule basis, and it is foreseeable based on planned medical treatment because of pregnancy, the City retains the discretion to transfer the employee temporarily to an alternative position, for which the employee is qualified, with equivalent pay and benefits which better accommodates the employee's leave schedule.

Time off needed for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, and recovery from childbirth would all be covered by pregnancy disability leave.

3. **Parents Both Employed by the City of Santa Paula**

In any case in which both parents of a child are employed by the City and are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to twelve (12) workweeks during any twelve (12) month period if leave is taken for the birth or placement for adoption or foster care of the employee's child. This limitation does not apply to any other type of leave under this policy.

E. EMPLOYEE BENEFITS WHILE ON LEAVE

Leave under this policy is unpaid. While on leave, an employee will continue to be covered by the City's group insurance benefits (*i.e.*, life, LTD, medical, dental, and vision) to the same extent that coverage is provided while the employee is on the job.

All other benefits (*i.e.*, vacation accrual, sick accrual, and holiday) will continue as long as the employee is continuing to receive a paycheck.

If the employee fails to return from the FMLA/CFRA leave for a reason other than the recurrence, continuation, or onset of a serious health condition or other circumstances beyond the employee's control, the City can recover any health premiums paid by the City on the employee's behalf during any unpaid periods of the leave.

F. SUBSTITUTION OF PAID ACCRUED LEAVES

1. Substitution of Paid Leave for Medical Leave

When an employee takes FMLA/CFRA leave for his/her own serious health condition, he/she is required to substitute all accrued paid leaves, including sick leave and vacation.

2. Substitution of Paid Leave for Family Care Leave

When an employee takes FMLA/CFRA leave for a reason other than his/her own serious health condition, he/she is required to substitute all accrued paid leaves, except sick leave. Any employee may elect to substitute accrued sick leave, but he/she is not required to do so.

3. Substitution of Paid Leave for Pregnancy Disability Leave

An employee taking pregnancy disability leave must substitute any accrued sick leave for her leave, and may, at her option, substitute any accrued vacation time or other paid leaves for her pregnancy disability leave.

4. City's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves

If an employee takes a leave of absence for any reason which is FMLA/CFRA-qualifying, the City may designate the non-FMLA/CFRA leave as running concurrently with the employee's twelve (12) week FMLA/CFRA leave entitlement.

5. City's and Employee's Rights if an Employee Requests Accumulated Leave without Mentioning Either FMLA or CFRA

If an employee requests to utilize accumulated vacation leave or other accumulated paid time off without reference to a FMLA/CFRA-qualifying purpose, the City might not ask the employee if the leave is for a FMLA/CFRA-qualifying purpose. If the employee voluntarily provides enough information as to the purpose of the leave that the City believes the employee may be seeking to take FMLA/CFRA leave, the City may inquire as to whether the leave qualifies for FMLA/CFRA leave. However, if the City denies the employee's request and the employee provides information that the requested time off is for a

FMLA/CFRA-qualifying purpose, the City may inquire further into the reason for the absence. If the reason is FMLA/CFRA-qualifying, the City may require the employee to exhaust accumulated leave as described above.

G. ~~MEDICAL~~ CERTIFICATION

1. Time to Provide a Certification

When an employee's leave is foreseeable and at least thirty (30) day's notice has been provided, the employee must provide a medical certification before the leave begins if requested by the City. When this is not possible, the employee must provide the requested certification to either the employee's Supervisor or Department Head within the time frame requested by the City (which must allow at least fifteen (15) calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

2. Consequences for Failure to Provide an Adequate or Timely Certification

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established by this policy, the City may delay the taking of FMLA/CFRA leave until the required certification is provided.

If the employee asks for leave because of his/her own serious health condition, and the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen by the City and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, and paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a recertification.

3. Medical Certification Forms

a. For Employee's Own Serious Health Condition and/or Pregnancy Disability

A medical certification form from the health care provider must include:

i. The date, if known, on which the serious health condition commenced or disability due to pregnancy;

ii. The probable duration of the condition;

iii. A statement that due to the serious health condition or disability, the employee is unable to work at all or is unable to perform any

one or more of the essential functions of his/her position; or in the case of a disability due to pregnancy, cannot perform the essential functions of the position without undue risk to the employee, the successful completion of the pregnancy; and

iv. If FMLA leave is being taken on an intermittent or reduced schedule basis, a statement that it is medically necessary for the employee to be on intermittent or reduced schedule leave and what the intermittent/reduced schedule leave will be.

For pregnancy disability, if a job transfer is recommended by the employee's health care provider, a statement that the transfer is medically advisable.

b. For a Family Member with a Serious Health Condition

A medical certification form from the employee's family member's health care provider must contain the following information:

i. The date, if known, on which the serious health condition commenced;

ii. The probable duration of the condition;

iii. An estimate of the amount of time that the health care provider believes that the employee will need to care for the family member;

iv. A statement that the serious health condition warrants the employee's participation to provide and care; and

v. If FMLA/CFRA leave is being taken on an intermittent or reduced schedule basis, a statement that it is medically necessary for the employee to provide care on an intermittent or reduced schedule basis and what the intermittent/reduced schedule will be.

4. **Qualifying Exigency Leave**

a. A copy of the military member's active duty orders (or other official documentation issued by the military) which indicates the military member is on covered active duty or call to covered active duty status.

b. A statement or description of the appropriate facts requarding the qualifying exigency.

c. A copy of the military member's rest and recuperation orders, or other documentation confirming the dates of the military member's

leave.

5. Military Caregiver Leave

a. Certification completed by an authorized health care provider or a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member's family.

H. EMPLOYEE NOTICE OF LEAVE

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g., for birth of a child or to take care of a newborn), the employee shall inform his/her Supervisor as soon as possible that such leave will be needed.

If the employee fails to give the requisite thirty (30) days notice for foreseeable events without any reasonable excuse for the delay, the City reserves the right to delay the

taking of the leave until at least thirty (30) days after the date the employee provides notice of his/her need for FMLA/CFRA leave.

I. REINSTATEMENT UPON RETURN FROM LEAVE

a. Right to Reinstatement from FMLA/CFRA Leave

Upon expiration of leave, an employee is entitled to be restored to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Employee has no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period. For example, if a reduction in force or other reorganization has taken place while the employee is on leave pursuant to this policy, the employee will be treated as if he/she has been on duty rather than on leave.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two (2) business days, where feasible, after the employee notifies the employer of his/her return.

Employees will be credited with all service prior to the commencement of their leave but not for the period of their leave. Employees who do not return at the end of their leave will be considered to have voluntarily resigned.

b. Right to Reinstatement from Pregnancy Disability Leave

On timely return at the expiration of the pregnancy disability leave period, an employee is entitled to the same position unless the employee would not otherwise have been employed in the same position at the time reinstatement is requested for legitimate business reasons unrelated to the employee's pregnancy disability leave or each means of preserving the job for the employee (such as leaving it unfilled or filling it with a temporary employee) would have substantially undermined the City's ability to operate the business safely and efficiently. If the employee is not reinstated to the same position, she will be reinstated to a comparable position unless there is no comparable position available or a comparable position is available, but filling that position with the returning employee would substantially undermine the City's ability to operate the business safely and efficiently.

When a request for pregnancy disability leave is granted to an employee, the City will give the employee a written guarantee of reinstatement at the end of the leave (with the limitations explained above.)

c. Employee's Obligation to Periodically Report on His/Her Status

Employees may be required to periodically report on their status and intent to

return to work. This will avoid any delays to reinstatement when the employee is ready to return.

d. **Fitness-for-Duty Certification**

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition or pregnancy disability, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

e. **Reinstatement of "Key Employees"**

A "key" employee is an exempt salaried employee who is among the highest paid ten percent (10%) of the City's employees. The City may deny reinstatement to a "key" employee if the refusal is necessary to prevent substantial and grievous economic injury to the City's operations and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

H. REQUIRED FORMS

Employees must fill out all applicable forms in connection with leave under this policy including the following:

1. "Request for Leave Under the Family Medical Leave Act, California Rights Act and/or California Pregnancy Disability Leave" prepared by the City to be eligible for leave;

2. Medical certification either for the employee's own serious health condition or for the serious health condition of a child, parent, spouse, or domestic partner;

3. Authorization for payroll deductions for benefit plan coverage continuation; and

4. Fitness for duty to return from leave form.

The employee must return all forms to the Personnel Officer. The decision whether a particular leave is FMLA/CFRA qualifying is made by the Personnel Officer, not the individual employee.

I. RELATIONSHIP BETWEEN PREGNANCY LEAVE AND FMLA LEAVE

This policy will be interpreted and applied in accordance with the FMLA, CFRA, and PDL, the regulations there under and all other applicable laws. Employees wishing to take pregnancy disability leave should be aware of the following:

1. Pregnancy disability leave may also be FMLA leave;

2. The City may be able to count time used on PDL against the twelve (12) week FMLA leave; and

3. Pregnancy is considered a "serious health condition" for FMLA purposes.

CITY OF SANTA PAULA
MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Kate Watkins, Emergency Services Coordinator

Subject: TERMINATION OF LOCAL EMERGENCY DELARED IN RESPONSE TO BREACH OF CITY'S MAIN WATER RESERVOIR

Date: September 4, 2024

Agenda Item: 9.C

RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt Resolution No. 7539 terminating the local emergency declared in response to a breach of the City's main water reservoir.

BACKGROUND:

On June 24, 2024 City Manager Dan Singer, declared an Emergency Proclamation for the City of Santa Paula due to a breach of the City's main water reservoir. This proclamation was ratified by City Council on July 2, 2024 with the approval of Resolution No. 7531. The City's main water reservoir was compromised, the extent to which was unknown, causing for the California State Water Resources Control Board and the Department of Drinking Water to advise declaring a "Do Not Drink the Water," notice for approximately half of the City's residents. To minimize disruption in services to the residents of Santa Paula, the Santa Paula Water Department provided water for free to anyone who came to the distribution site.

Upon receiving testing results, the water was determined to be drinkable. Thus, on June 25, 2024 the public was notified they would be able to drink the water once again. City staff continued to work on closing out their emergency response in their particular departments. Immediately, staff began to pursue options for future security to limit the opportunity for a threat of this nature to occur again.

ANALYSIS:

With the restoration of water, investigation of the security breach done, and s ecurity measures well underway, the necessity for an emergency declaration has concluded. In ongoing efforts to increase security of the facility, an inner fence is being built to secure the reservoir. Additional measures are being examined for increased security, considerations including cameras, lighting, and various warning mechanisms.

STRATEGIC PLAN:

While this action is not an objective called out in the City's adopted Strategic Plan, it is consistent with Goal E: Public Safety & Emergency Preparedness, which calls for the creation of an environment within the City in which our residence feel safe. Through updating the security of the reservoir, the city's facilities are becoming more secure, thus promoting a safer environment for residents.

FISCAL IMPACTS:

Ratification terminating the emergency declaration has no direct fiscal impact. The incident creating the emergency caused the public, businesses, and the City harm, however, the City has little means of restitution or reimbursement for the costs associated with the response and restoration of this incident.

Approximately $137,000 will have been spent by September on increased security, new fencing and a budget for surveillance, which will come out of the City's Water Enterprise Fund from cost savings in groundwater pumping charges.

OPTIONS:

As an alternative to Staff's recommendation, the City Council has the following options:

1. Do not adopt the attached resolution because an identified necessity for a continued emergency declaration remains, and/or
2. Provide alternative direction to staff.

ATTACHMENTS:

Resolution 7539_re_Termination_of_Local_Emergency.pdf

ATTACHMENT A

RESOLUTION NO. 7539

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA PAULA TERMINATING THE LOCAL EMERGENCY DECLARED IN RESPONSE TO BREACH OF CITY'S MAIN WATER RESERVOIR

The City Council of the City of Santa Paula resolves as follows:

SECTION 1: *Recitals*.

A. California Government Code Section 8630 empowers the City Council to proclaim the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity.

B. Santa Paula Municipal Code (SPMC) section 34.05(8)(1) empowers the City Manager, acting as the Director of Emergency Services, to request the City Council to proclaim the existence or threatened existence of an emergency if the City Council is in session. If the City Council is not in session, the City Manager shall proclaim the existence or threatened existence of an emergency, subject to confirmation by the City Council at the earliest practicable time, but in no case shall such proclamation remain in effect for a period in excess of seven days unless it has been ratified by the City Council.

C. On June 24, 2024, an individual breached the City's main water reservoir, potentially contaminating the drinking water supply to roughly half of the City's residents.

D. The City Manager, acting as the Director of Emergency Services, proclaimed an emergency as a result of the main water reservoir breach on June 24, 2024.

E. On July 2, 2024, the City Council adopted Resolution No. 7531 ratifying the proclamation of local emergency by the City Manager.

F. Pursuant to California Government Code section 8630(d), the City Council shall proclaim the termination of the local emergency at the earliest possible date that conditions warrant.

SECTION 2: *Termination of Proclamation of Local Emergency.* Pursuant to California Government Code section 8630(d), and SPMC section 34.05(8)(1), the City Council finds and proclaims that the conditions of extreme peril to the safety of persons and property that arose as a result of the breach of the City's main water reservoir in the City of Santa Paula no longer exist. As such, the proclamation of an existence of a local emergency declared in response to the breach of the City's main water reservoir proclaimed by the City Manager on June 24, 2024 and ratified by the City Council on July 2, 2024 is hereby terminated.

SECTION 3: The City Clerk shall certify to the passage and adoption of this resolution and enter into the book of original resolutions.

PASSED AND ADOPTED by the City Council of the City of Santa Paula this 4th day of September, 2024.

_____

Leslie Cornejo, Mayor

ATTEST:

_____

Julie Latshaw, CMC, City Clerk

APPROVED AS TO FORM:

_____

Monica Castillo, City Attorney

CITY OF SANTA PAULA
MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Monica Castillo, City Attorney

Subject: HARVEST AT LIMONEIRA WELL 7 AND WELL 8 OFFSITE IMPROVEMENT AGREEMENTS

Date: September 4, 2024

Agenda Item: 9.D

RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt Resolution No. 7538 Approving Well 7 and Well 8 Offsite Improvement Agreements.

BACKGROUND:

In 2008, the City Council approved a General Plan Amendment, Specific Plan, and Development Agreement with then property owner Limoneira Company that, together, allowed for the development of the East Area 1 project known as Harvest at Limoneira.

On February 17, 2015, the City Council and the Planning Commission held joint public hearings regarding the project and approved successor owner Limoneira Lewis Community Builders, LLC's ("LLCB") request for an amendment to the Specific Plan (the "Original EA1SP"), a First Amended and Restated Development Agreement ("Original Development Agreement"), and Master Vesting Tentative Tract Map (MVTTM) No. 5854. MVTTM No. 5854 subdivided the East Area 1 project area into several "super lots" to facilitate the development allowed within the East Area 1 plan area. The Master Map established the primary boundaries for major development areas and primary streets within the specific plan area. Over the years, the Original Development Agreement has been amended twice ("Development Agreement"), the Original EA1SP amended four times ("East Area 1 Specific Plan"), and the General Plan amended as needed (together, the "Project").

The East Area 1 Specific Plan provides for the establishment of a new well field consisting of at least two wells known as Well 7 and Well 8. LLCB has started construction of both. Well 7 is located at the southern end of the future Santa Paula Creek Linear Park, which runs along the western edge of the development, and Well 8 is located above Well 7 at the northern end. (See **Attachment A** site map)

In accordance with the Specific Plan, Well 7 will be designed with a capacity to pump 2,500 gallons per minute (gpm), and Well 8 will be designed with a capacity to pump at 1,500 gpm. Well 7 will have a treatment facility that will treat water from both Well 7 and Well 8 prior to this

water entering the City's domestic system. Running these wells approximately 9 hours per day will provide 365 acre feet per year of water.

Staff now requests Council approval of two proposed offsite improvement agreements which would obligate LLCB to furnish improvement security for the completion of Well 7 and Well 8 (respectively, Exhibit A and Exhibit B of **Attachment B** [Resolution No. 7538]).

ANALYSIS:

Typically, improvement agreements are recorded against a specific subdivision map in a development project and are called subdivision improvement agreements. Improvement agreements may also be used in relation to a project site as whole, in which case they are called “offsite improvement agreements.” The two types of agreements have the same legal effect. Here, LLCB and City have negotiated offsite improvement agreements for Well 7 and Well 8.

The Well 7 Offsite Improvement Agreement (OIA) will ensure the completion of Well 7 and a water treatment facility consistent with the Specific Plan. The OIA requires LLCB to post a performance bond in the amount of $7,950,767 and to complete the Well 7 improvements before the 1000th certificate of occupancy is issued within East Area 1. Before City accepts the completed improvements, LLCB must file a one-year 10% warranty bond.

Likewise, the Well 8 OIA will ensure the completion of Well 8 and appurtenant features consistent with the Specific Plan. The OIA requires LLCB to post a performance bond in the amount of $2,121,600 and to complete the Well 8 improvements before the first certificate of occupancy issued within future Tract Map No. 6000 (Phase III – Santa Paula Creek Neighborhood), a later phase of the East Area 1 project. Before City accepts the completed improvements, LLCB must file a one-year 10% warranty bond.

STRATEGIC PLAN:

Though this item does not promote a specific objective in the City's Two-Year Strategic Plan, it furthers the following general goal: "Create an environment within the City in which our residents feel safe and which promotes the City as a location of choice for living, working, visiting and recreating."

FISCAL IMPACTS:

There are no fiscal impacts associated with approving the agreements. LLCB is responsible for the wells’ construction and maintenance until such time as they are completed and accepted by the City. Further, LLCB will be reimbursed from available bond sale proceeds from CFD No. 1, if any are available.

OPTIONS:

As an alternative to the recommended action, the Council may also:

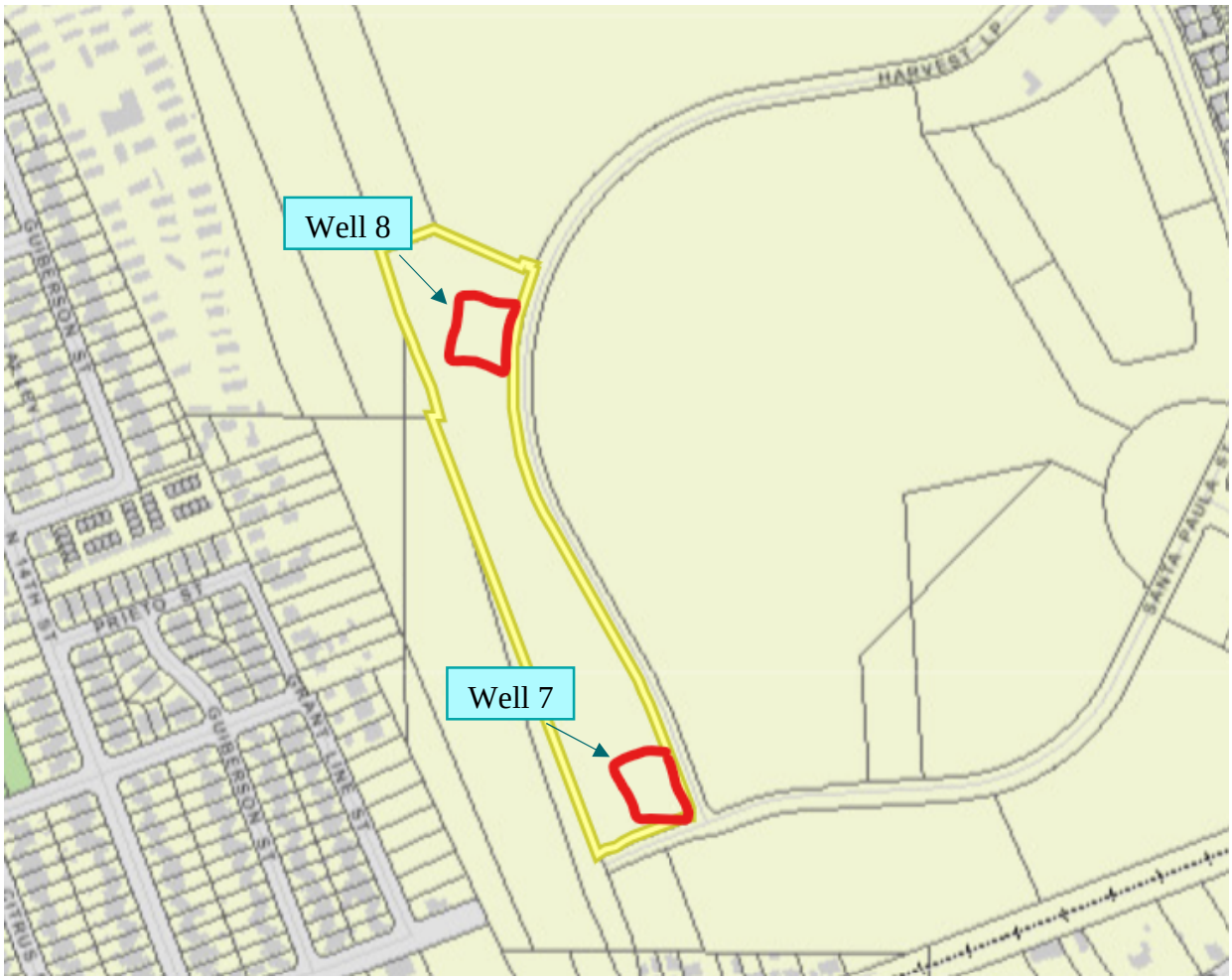
1. Adopt the resolution approving the Well 7 and Well 8 offsite improvement agreements with specified amendments to the agreements.
2. Take other action as desirable.

ATTACHMENTS:

ATTACHMENT A - Wells 7 and 8 Map.pdf
ATTACHMENT B - Reso Approving Well 7 and 8 Offsite Improvement Agreements w Exs_FINAL.pdf

ATTACHMENT A

Well Locations



ATTACHMENT B

RESOLUTION APPROVING WELLS 7 AND 8 OFFSITE IMPROVEMENT AGREEMENTS

RESOLUTION NO. 7538

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA PAULA APPROVING OFFSITE IMPROVEMENT AGREEMENTS FOR WELL 7 AND WELL 8 AT HARVEST AT LIMONEIRA

The City Council of the City of Santa Paula does resolve as follows:

SECTION 1: *Recitals*.

A. In 2008, the City Council approved a General Plan Amendment, Specific Plan, and Development Agreement with then property owner Limoneira Company that, together, allowed for the development of the East Area 1 project known as Harvest at Limoneira.

B. On February 17, 2015, the City Council and the Planning Commission held joint public hearings regarding the project and approved successor owner Limoneira Lewis Community Builders, LLC's ("LLCB") request for an amendment to the Specific Plan (the "Original EA1SP"), a First Amended and Restated Development Agreement ("Original Development Agreement"), and Master Vesting Tentative Tract Map (MVTTM) No. 5854. MVTTM No. 5854 subdivided the East Area 1 project area into several "super lots" to facilitate the development allowed within the East Area 1 plan area.

C. The Master Map established the primary boundaries for major development areas and primary streets within the specific plan area. Over the years, the Original Development Agreement has been amended twice ("Development Agreement"), the Original EA1SP amended four times ("East Area 1 Specific Plan"), and the General Plan amended as needed (together, the "Project").

D. The East Area 1 Specific Plan provides for the establishment of a new well field consisting of at least two wells known as Well 7 and Well 8.

E. LLCB is required to build Wells 7 and 8, which will be used to supply drinking water to Harvest residents.

F. To comply with Project requirements, LLCB and City have negotiated two proposed offsite improvement agreements which would obligate LLCB to furnish improvement security for the completion of Well 7 and Well 8. The agreements are attached as Exhibit A and Exhibit B, respectively, to this Resolution.

SECTION 2: *Environmental Assessment*. The City Council makes the following environmental findings:

A. The City certified the EA1 FEIR, adopted the Specific Plan, and approved a series of related actions in February 2008. As required by the California Environmental Quality (CEQA), the City adopted findings of fact for the significant impacts

identified in the EA1 FEIR and a statement of overriding considerations for those impacts identified as significant and unavoidable after the incorporation of all feasible mitigation into the East Area 1 project.

B. Addendum No. 1 to the EA1 FEIR, prepared by the City in February 2010, addressed the addition of three parcels to the proposed East Area 1 annexation to allow for the implementation of improvements to the intersection of Telegraph Road and Hallock Drive identified in Mitigation Measure T-2 of the EA1 FEIR.

C. From 2014 through 2016, the City prepared two subsequent Addendums to the EA1 FEIR to address changes to the Project, as well as a Final Supplemental EIR (the "FSEIR"), certified in 2015, for, among other entitlements, an amendment to the Specific Plan, followed by two Addendums to the FSEIR.

D. In 2024, the City approved Addendum No. 3 to the EA1 FEIR for approval of Amendment No. 3 to the Development Agreement, and Addendum No. 4 for approval of Amendment No. 4 to the Specific Plan and a General Plan Amendment.

E. All prior CEQA documents shall collectively comprise and be referred to hereafter in this Section as the "EA1 FEIR".

F. The EA1 FEIR (including documents and other materials that constitute the record of proceedings on which the City's findings and decisions are based) is located at City of Santa Paula, 970 Ventura Street, Santa Paula, CA 93060. The custodian for these documents is the Community and Economic Development Director. This information is provided in compliance with CEQA § 21081.6(a)(2) and CEQA Guidelines § 15091(e).

G. The EA1 FEIR is incorporated into this Resolution by reference as if fully set forth herein.

H. The California Environmental Quality Act (CEQA) requires a review of the information in the EA1 FEIR to address changes to a project or changes to the circumstances under which a project will occur and to assess whether a subsequent or supplemental EIR is required.

I. Pursuant to Section 15162 of the California Environmental Quality Act, approval of the offsite improvement agreements does not require a subsequent or supplemental EIR because the proposed agreements will not result in any new significant impacts or any substantial increase in severity of the significant impacts identified in the EA1 FEIR for the Amended Project. Approving the agreements does not add improvements whose impacts were not already considered in the previous environmental document, EA1 FEIR.

SECTION 3: *Approval*. The City Council approves the offsite improvement agreements for Wells 7 and 8. The City Manager is authorized to execute the agreements and to implement this Resolution.

SECTION 4: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED, APPROVED AND ADOPTED, this 4th day of September, 2024.

_____
Leslie Cornejo, Mayor

ATTEST:

_____
Julie Latshaw, City Clerk, CMC

Approved as to form:

_____
Monica Castillo, City Attorney

EXHIBIT A

WELL 7 OFFSITE IMPROVEMENT AGREEMENT

[Attached behind]

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City Clerk
City of Santa Paula
970 Ventura Street
Santa Paula, CA 93060

No fee per Government Code § 6103

APNs 107-0-230-015, 107-0-220-055 and -065 (Tract 6001)

HARVEST AT LIMONEIRA
OFFSITE IMPROVEMENT AGREEMENT

WELL NO. 7

THIS AGREEMENT ("Agreement") is made and entered into this ___ day of _____, 2024 ("Effective Date"), by and between the CITY OF SANTA PAULA, a general law city and municipal corporation ("CITY") and LIMONEIRA LEWIS COMMUNITY BUILDERS, LLC, a Delaware Limited Liability Company ("DEVELOPER"). Capitalized terms not otherwise defined in this Agreement will have the meanings attributed to them in the Development Agreement.

The Parties agree as follows:

1. **RECITALS**. This Agreement is made with reference to the following facts and objectives:

A. On or about February 26, 2015, the City and Limoneira Company entered into an Amended and Restated Development Agreement ("Original Development Agreement") for developing the area commonly known as "East Area 1" for a mixed-use planned community ("Project") on real property shown in Tract Map No. 5854 recorded in the Official Records of Ventura County ("Official Records") on December 28, 2017, as Document No. 20171220-00164292-0 ("Property").

B. The Original Development Agreement was recorded in the Official Records on April 27, 2015, as Document No. 20150427-00062760-0. On or about September 21, 2015, DEVELOPER became the successor in interest to the rights and obligations of Limoneira Company pertaining to the Original Development Agreement.

C. The Original Development Agreement was amended by the First Amendment to the Development Agreement, dated March 18, 2020

("Amendment No. 1"), and by the Second Amendment to the Development Agreement, dated April 21, 2021 ("Amendment No. 2"), and the Third Amendment to the Development Agreement, dated March 23, 2024 ("Amendment No. 3").

D. The Original Development Agreement has been further clarified and supplemented by Operating Memoranda Nos. 1 - 8 (collectively, the "Operating Memoranda") on file with the City. The Original Development Agreement, as amended by Amendment Nos. 1, 2, and 3, and the Operating Memoranda are collectively referred to herein as the "Development Agreement."

E. Pursuant to the Development Agreement, DEVELOPER must construct certain public improvements known as Well No. 7 ("Improvements"), including the Iron & Manganese Treatment Facility for Well Nos. 7 and 8 generally described in the attached **Exhibit A**. The Improvements will be constructed in accordance with plans and specifications on file with CITY known as City Drawing No. 40.35.111 by DEVELOPER's contractor Water Resource Engineering Associates ("WREA").

F. Section 7.1.2 of the Development Agreement requires DEVELOPER to provide improvement security for the Improvements to the extent they are not financed by a Financing Mechanism. The Acquisition Agreement defined in Section 14, below, together with the CFD No. 1 formation documents, is a Financing Mechanism.

G. Section 14 of the Acquisition Agreement provides that DEVELOPER must secure construction of the Improvements with a bond or other security, but that such bond amount must be reduced by amounts of CFD proceeds dedicated for the Improvements as the City "determine[s] is appropriate."

2. **CONSTRUCTION OF IMPROVEMENTS.** At its sole cost and expense, DEVELOPER agrees to furnish all labor, materials, tools, equipment, and incidentals, and for doing all the work necessary to complete the Improvements set forth in the approved plans and specifications and in conformance with the Approvals (as that term is defined in the Development Agreement), CITY standards, and federal and state requirements.

3. **ESTIMATED COST OF IMPROVEMENTS.**

A. The estimated hard costs of the Improvements is $7,628,767, inclusive of a 25% contingency ("Estimated Hard Costs").

B. A copy of the Estimated Hard Costs is attached hereto as **Exhibit B** and incorporated by this reference.

C. The estimated soft costs to complete the Improvements include final design, permits, future price inflation, construction management, project management, and inspections at an estimated cost of $322,000 ("Estimated Soft Costs").

D. The combined total of Estimated Hard Costs and Estimated Soft Costs is $7,950,767 (hereafter, the "Total Estimated Costs").

4. **MODIFICATIONS TO TOTAL ESTIMATED COSTS.**

A. The Estimated Hard Costs in **Exhibit B** shall not be increased by more than five percent (5%) without DEVELOPER delivering written notice to the City Engineer. If during the course of construction of the Improvements, DEVELOPER is presented with a change order or set of change orders that would increase the Estimated Hard Costs secured by a bond by more than 15%, DEVELOPER must receive the approval of City Engineer before approving the change order(s), which shall not be unreasonably withheld or conditioned, subject only to the City Engineer's right to require, pursuant to Subsection B below, a corresponding increase in the amount of the bonds for such Improvements.

B. Should the Total Estimated Costs bonded for be inadequate to cover increased costs to complete the Improvements, the City Engineer may require, and Developer will comply with, an increase in the bond coverage to reflect the increased costs for constructing the Improvements to ensure adequate bonds are in place. To the extent such costs exceed the Total Estimated Costs, the bonds applicable to such Improvements shall be increased by the difference.

5. **TIME FOR COMPLETION.** DEVELOPER shall substantially complete the Improvements prior to issuance of the 1,000th certificate of occupancy in the Project, as specified in the City's East Area 1 Water Facilities Delivery – Tract 6001 letter, dated February 7, 2024 ("Letter"), attached hereto as **Exhibit C** and incorporated by this reference. Pursuant to the Letter, the Improvements will be deemed "substantially completed" when the Improvements are functional and can be utilized for potable water service. Pursuant to Section 7.2.1 of the Development Agreement, CITY must cooperate with Developer and take all actions necessary and appropriate to facilitate timely completion of the Improvements. CITY's City Manager, in his/her reasonable discretion, may approve extensions of time upon submittal of a written request from DEVELOPER.

6. **COMPLETION BY CITY.** Should DEVELOPER fail to complete the Improvements within the time for completion in breach of the terms of this Agreement, CITY, at its option, may enter onto DEVELOPER's property to complete the Improvements and satisfy Section

5, above, at DEVELOPER's cost. This option is in addition to any other remedies available to CITY.

7. **INSPECTION; CONSTRUCTION; FINAL ACCEPTANCE.**

A. DEVELOPER will provide on-site construction management to supervise construction and ensure the Improvements are completed in accordance with the plans approved by the City Engineer. The DEVELOPER shall have responsibility to ensure that the construction is accomplished in accordance with the approved plans and specifications. The DEVELOPER's construction manager shall submit timely requests for inspection by City and/or other required public agencies as needed throughout project construction.

B. The City Engineer shall have the right to inspect the construction of the Improvements to confirm that the construction is accomplished in accordance with the approved plans. City personnel shall have access to the construction at all reasonable times for the purpose of accomplishing such inspection.

C. After DEVELOPER's contractor has completed the Improvements, provided a certification of operation readiness and water quality test, and prior to the state permit to connect to the City public drinking water system, DEVELOPER shall request a final inspection of such work, and the work shall be inspected, approved and accepted in strict compliance with the terms of Government Code section 66499.7.

D. No inspection or acceptance pertaining to specific parts of the Improvements shall be construed as final acceptance of any part until the overall final acceptance of the Improvements is made by the CITY in accordance with Government Code section 66499.7 and the Development Agreement. Final acceptance shall not constitute a waiver by CITY of defective work subsequently discovered.

E. DEVELOPER will contract with WREA, or equivalent qualified-level civil engineer as engineer of record to provide construction support services and provide certified as-built plans to the CITY prior to final acceptance of the Improvements.

F. Upon completion of the Improvements and final acceptance by the CITY, DEVELOPER shall promptly file a Notice of Completion with the City Clerk for recordation at the Ventura County Recorder's Office.

8. **CONTINUOUS WORK ON THE IMPROVEMENTS**. DEVELOPER shall cause construction of the Improvements to be diligently pursued to completion, and shall not

abandon the work for a consecutive period or more than sixty (60) days, events of Force Majeure excepted.

9. **WARRANTY OF IMPROVEMENT PLANS.** DEVELOPER warrants that the plans and specifications for the Improvements shall conform to the Approvals (as the term is defined in the Development Agreement), together with all conditions made a part of such Approvals. Except as directed by CITY, DEVELOPER further warrants that the plans and specifications can be relied upon to accomplish the Improvement work covered by this Agreement in a good, workmanlike manner and in accordance with accepted construction practices. Should the plans and specifications at any time before final acceptance of the Improvements prove to be inadequate in any respect except to the extent said plans and specifications were directed by the CITY, DEVELOPER agrees to make such changes reasonably deemed necessary by CITY to complete the Improvements in a good, workmanlike manner and in accordance with accepted construction practices. DEVELOPER further agrees to make or cause to be made such engineering, soils and other reports as may be required by CITY.

10. **CITY NOT LIABLE FOR PLANS AND SPECIFICATIONS**. CITY is not an insurer or surety for the design or construction of the Project. And CITY, its officers, officials, employees, agents, representatives, and certified volunteers are not liable or responsible for any claim arising during construction of the Project or Improvements, unless it can be shown that such person directed that the Project or Improvements be designed or constructed in a manner contrary to the wishes and desires of DEVELOPER, and DEVELOPER filed a written objection or equivalent notice with the City Engineer before commencing such work or Improvement.

11. **WARRANTY OF WORK.** DEVELOPER warrants that the Improvements will be constructed in conformance with the approved plans and specifications, CITY standards, and the highest industry standards. Should any Improvement fail to comply with this warranty or any other provision of this Agreement within one (1) year after CITY's final acceptance, DEVELOPER shall, without delay and without cost to CITY, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements. Should DEVELOPER fail to act promptly or in accordance with this requirement or should the exigencies of the case require repairs or replacements to be made before DEVELOPER can be notified, CITY will, at its option, make the necessary repairs, replacements, or reconstruction, as determined by CITY. DEVELOPER shall pay to CITY the actual cost of such repairs, replacements, or reconstruction plus CITY's administrative costs. This section is not a waiver of any other right CITY may have for correcting faulty workmanship or defective materials.

12. **REPAIRS AND REPLACEMENTS.** DEVELOPER shall repair or replace, as reasonably determined by CITY, Improvements and monuments destroyed or damaged by DEVELOPER's actions and to repair or replace, as reasonably determined by CITY, any property damaged or destroyed by DEVELOPER. Any such repair or replacement

shall be completed to CITY's reasonable satisfaction and approval, and at no cost to CITY and not limited by any surety bond required in this Agreement.

13. **CITY'S RIGHT OF ENTRY**. DEVELOPER grants CITY right of entry to DEVELOPER's property, to the extent applicable, to inspect the Improvements constructed by DEVELOPER and to ensure compliance with this Agreement.

14. **CONTRACT SECURITY.**

A. Concurrently with the execution of this Agreement, DEVELOPER shall furnish:

i. A surety bond in an amount equal to at least one hundred percent (100%) of the Total Estimated Costs as security for the faithful performance of this Agreement, in the amount of $7,950,767.

ii. A separate surety bond in an amount equal to at least one hundred percent (100%) of the Estimated Hard Costs for said Improvements as security for the payment of all persons performing labor and furnishing materials in connection with this Agreement.

B. The surety bonds in Subsection A. shall be paid and in effect until the earlier to occur of (i) CITY's final acceptance of the Improvements and receipt of warranty bonds in accordance with the warranty required by Section 11 and 14, or (ii) receipt in CITY's account of CFD bond sale proceeds from Harvest Community Facilities District No. 1 sufficient to fund the Improvements and designated for that purpose. Should another jurisdiction with authority over the Improvements project require security for the Improvements that are duplicative of the amounts set forth in this Agreement, the parties will cooperate in good faith to ensure that DEVELOPER is not required to incur the cost of bonding twice for the Improvements and to ensure that CITY and any other agency requiring bonding are adequately secured, such as adding one or more of the agencies as an obligee to the surety in an appropriate rider to the bonds furnished to the lead agency for the Improvements. Additionally, pursuant to Government Code 66499.5, CITY acknowledges the Improvements contemplated herein are financed and installed pursuant to special assessment proceedings and, in accordance with Santa Paula Municipal Code § 16.80.950 and DEVELOPER's satisfaction of same, agrees that, upon furnishing by the contractor of the faithful performance and labor and material bonds required by the special assessment act being used, the improvement security of the DEVELOPER shall be reduced by an amount corresponding to the amount of such bonds so furnished by the contractor.

C. CFD bond sale proceeds will be paid to DEVELOPER upon completion of

the Improvements by DEVELOPER and acquisition of the Improvements by CITY pursuant to this Agreement and the terms of the Funding, Construction and Acquisition Agreement for Harvest Community Facilities District No.1 dated as of March 1, 2017, as may be amended ("Acquisition Agreement"). In the event there are insufficient CFD bond proceeds, the CITY will not be responsible for reimbursing DEVELOPER for the Improvements, and pursuant to Section 15 of the Acquisition Agreement, the CITY is only required to reimburse DEVELOPER for those Public Facilities (as the term is defined in the Acquisition Agreement) which can be reimbursed with the total of the amount of available bond sale proceeds. Nothing herein shall relieve DEVELOPER from its obligation to complete the Public Facilities pursuant to the terms of this Agreement and the Development Agreement.

D. In accordance with Section 14 of the Acquisition Agreement, the CITY will reduce the aggregate principal amount of the surety bonds by such amount as it determines is appropriate to allocate to the Improvements, upon receipt of the bond sale proceeds.

15. **WARRANTY BONDS.** Prior to CITY's final acceptance of the Improvements, DEVELOPER shall file with the CITY a bond guaranteeing the warranty requirements of Section 11 in the amount of at least ten percent (10%) of the Total Estimated Costs. This warranty bond will be released one year after final acceptance of the Improvements, subject to CITY's timely inspection of the Improvements and determination that the Improvements are free of defects. CITY's final acceptance is contingent on DEVELOPER's replacement of temporary power or rental generators, if any used, with permanent power sources necessary to operate the Improvements.

16. **PERFORMANCE BY CITY OR SURETY**.

A. Should DEVELOPER fail to construct the Improvements in the manner and at such locations as specified within the time requirements of this Agreement, or if DEVELOPER is not carrying out the intent of this Agreement, CITY may serve written notice upon DEVELOPER and the surety on DEVELOPER's faithful performance bond demanding satisfactory compliance with this Agreement.

B. Should CITY serve such written notice, CITY may do any one, or combination of, the following:

i. Serve written notice upon the surety on its faithful performance bond demanding satisfactory compliance with this Agreement. In such event the surety must, within five (5) days, assume control and construct the Improvements as DEVELOPER'S successor;

ii. CITY may construct the Improvements itself, or by contract, at DEVELOPER's expense on a time and materials basis. In such event, CITY may take possession of and utilize in completing the Improvements' construction, materials, appliances, and other property belonging to DEVELOPER as may be on the site of the work without liability to CITY. DEVELOPER's surety will be liable to CITY for any excess cost of damages incurred by CITY.

C. Nothing in this Section waives, or serves as a limitation upon, any additional remedy CITY may have under this Agreement or applicable law.

17. **SURETY BOND TO INCLUDE LETTER OF CREDIT.** The term "surety bond" also includes such other acceptable security, such as letters of credit or cash deposit agreements issued by responsible financial institutions, which are approved by the City Attorney. The term "surety" includes the issuer of any letter of credit or cash deposit agreement, which is acceptable to CITY as security for the performance of this Agreement. Sureties must be admitted to do business in the State of California.

18. **BEST MANAGEMENT PRACTICES**. DEVELOPER agrees to use best management practices ("BMPs"), as that term is defined under applicable law including, without limitation, the Santa Paula Municipal Code, in constructing the improvements anticipated by this Agreement. DEVELOPER's failure to comply with the terms of this Section constitutes a material breach of this Agreement.

19. **OWNERSHIP OF DOCUMENTS.** All documents, data, studies, drawings, maps, models, photographs and reports specific to the improvements identified herein prepared by DEVELOPER under this Agreement are CITY's property. DEVELOPER may retain copies of said documents and materials as desired but must deliver all original materials to CITY upon CITY's written notice.

20. **INDEPENDENT CONTRACTOR.** CITY and DEVELOPER agree that DEVELOPER will act as an independent contractor and will have control of all work and the manner in which it is performed. DEVELOPER will be free to contract for similar service to be performed for other employers while under contract with CITY. DEVELOPER is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct DEVELOPER as to the details of doing the work or to exercise a measure of control over the work means that SUBDIVIDER will follow the direction of CITY as to end results of the work only.

21. **PREVAILING WAGES**. Pursuant to Section 7.2.5 of the Development Agreement, DEVELOPER agrees, covenants, and warrants that the development of the Improvements shall comply with all applicable federal and state labor laws (including, without limitation, the requirement under California law to pay prevailing wages and hire

apprentices), and all obligations as set forth herein. CITY makes no representations concerning prevailing wages in compliance with California Labor Code Section 1770 et seq.

22. **INDEMNIFICATION.**

A. DEVELOPER indemnifies and holds CITY harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising out of this Agreement, or its performance. Should CITY be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, DEVELOPER must defend CITY (at CITY's request and with counsel satisfactory to CITY) and indemnify CITY for any judgment rendered against it or any sums paid out in settlement or otherwise.

B. For purposes of this section "CITY" includes CITY's officers, officials, employees, agents, representatives, and certified volunteers.

C. The Parties agree that this section will remain in full force and effect until the Improvements have been formally accepted by CITY.

D. The requirements as to the types and limits of insurance coverage to be maintained by DEVELOPER, and any approval of such insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by DEVELOPER pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

23. **INSURANCE**.

A. Before commencing performance under this Agreement, and at all other times this Agreement is effective, Developer shall procure and maintain, and shall require its contractors and subcontractors to procure and maintain, the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

Type of Insurance	Limits
Commercial General Liability (Bodily Injury, Personal Injury, and Property Damage)	$5,000,000 Occurrence
Commercial Automobile Liability	$2,000,000 Per Accident

(Any Auto Hired and Non-Owned Liability)

Worker's Compensation	Statutory
Employers Liability (Bodily Injury by Accident)	$1,000,000 Each Accident

B. The amount of insurance set forth above will be a per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies must be endorsed to name CITY, its officers, officials, agents, employees and volunteers as "additional insureds" under said insurance coverage and to state that such insurance will be deemed "primary" such that any other insurance that may be carried by CITY will be excess thereto. Such insurance will be on an "occurrence," not a "claims made," basis and will not be cancelable or subject to reduction except upon thirty (30) days' prior written notice to CITY.

C. DEVELOPER must furnish and require its contractors and subcontractors to furnish to CITY duly authenticated Certificates of Insurance evidencing maintenance of the insurance required under this Agreement and such other evidence of insurance or copies of policies as may be reasonably required by CITY from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII." Certificate(s) must reflect that the insurer will provide thirty (30) day notice of any cancellation of coverage. DEVELOPER will require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

24. **NOTICES.**

A. Unless expressly stated otherwise, all notices given or required to be given pursuant to this Agreement will be in writing and may be given by personal delivery or by mail. Notice sent by mail will be addressed as follows:

<u>If to the City</u>
City of Santa Paula
Public Works Department
Attn: Public Works Director
P.O. Box 569
Santa Paula, CA 93061-0569

<u>If to the Developer</u>

Limoneira Lewis Community Builders LLC
c/o Lewis Management Corporation
Attn: David Lauletta
133 N. 10th Street
Santa Paula, CA 93060

B. When addressed in accordance with this Section, notices will be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices will be deemed given at the time of actual delivery.

C. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

25. **COMPLIANCE WITH LAW.** DEVELOPER will comply with all laws applicable to this Agreement including, without limitation, federal, state, and local laws requiring permitting and licenses. All such compliance will be at DEVELOPER's own cost.

26. **FORCE MAJEURE.** Developer's time for commencement and completion of the Improvements shall be extended for the period of any delay due to one more of the following circumstances beyond the control and without the fault of DEVELOPER ("Force Majeure"): adverse weather conditions; flood; earthquakes; strikes; lockouts; acts of God; enemy action; civil commotion; acts or failures to act of a public agency (including, without limitation, delay in the issuance of permits or approvals by governmental authorities that are required for the work); fire or other casualty; failure or inability to secure materials or labor; changes in local, state or federal laws or regulations; pandemics; epidemics; lack of financing due to generally applicable economic conditions affecting the capital markets generally; and strikes and other organized labor action occurring at the project site and the effects thereof on the work, only to the extent such strikes and other organized labor action are beyond the control of DEVELOPER, its contractors, and its subcontractors, of every tier, and to the extent the effects thereof cannot be avoided by use of replacement workers. DEVELOPER shall be required to provide CITY with timely notice of the facts and circumstances constituting or giving rise to the Force Majeure event and to keep the CITY fully apprised with respect thereto. The parties shall meet as early as reasonably practicable, in no event later than one (1) month of the Force Majeure event, to discuss the event, agree on any additional actions to be taken by either party, and document the agreed length of delay caused by the Force Majeure event. The City Manager shall evaluate and approve or deny all claims to Force Majeure made by the DEVELOPER and the decision of the City Manager shall be the final determination of the City, subject only to judicial review.

27. **CONSTRUCTION.** The language of each part of this Agreement will be construed simply and according to its fair meaning, and this Agreement will never be construed either for or against either party.

28. **SEVERABLE.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect.

29. **CAPTIONS.** The captions of the paragraphs of this Agreement are for convenience of reference only and will not affect the interpretation of this Agreement.

30. **WAIVER.** Waiver of any provision of this Agreement will not be deemed to constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver.

31. **GOVERNING LAW.** This Agreement has been made in and will be construed in accordance with the laws of the State of California and exclusive venue for any action involving this Agreement will be in the County of Ventura.

32. **AUTHORITY/MODIFICATION.** This Agreement is subject to and conditioned upon approval and ratification by the Santa Paula City Council. This Agreement is not binding upon CITY until executed by the City Manager. The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written agreement. CITY's City Manager may execute any such amendment on behalf of CITY.

33. **BINDING UPON SUCCESSORS**. The terms of this Agreement constitute a burden and benefit upon the Property. Accordingly, this Agreement will be recorded and the terms will run with the Property and become binding upon DEVELOPER's heirs, successors and assigns.

34. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF SANTA PAULA,
a municipal corporation

LIMONEIRA LEWIS COMMUNITY BUILDERS, LLC,
a Delaware Limited Liability Company

Dan Singer,
City Manager

David Lauletta,
Authorized Agent

ATTEST:

Julie Latshaw,
City Clerk

APPROVED AS TO FORM:

Monica Castillo,
City Attorney

EXHIBIT A

DESCRIPTION OF IMPROVEMENTS

1. 2,500 GPM Well pump and column pipe
2. Well head piping and valves
3. Removable well pump and auxiliary pump sunshades
4. Electrical panel sunshade
5. 3-2,000 GPM Iron and manganese filters with valves, fittings and appurtenances per LoPrest scope of supply
6. 120,000 Gallon useable backwash water tank
7. Sodium hypochlorite disinfection system
8. System piping, valves and auxiliary pumps
9. Concrete equipment pads/slabs, site paving
10. Signaling and control system/SCADA interface
11. Electrical panels, conduits, wiring
12. Emergency standby generator
13. Sewer line connection
14. Potable water line connection
15. Raw water line connection
16. Concrete ringwall and tank center column support (if required) for 120,000 gallon tank
17. Area drains
18. Site fine grading
19. Geotechnical Design Recommendation Report by Leighton, and Storm Water Quality Management Program (SWQMP) per separate Grading Plan and Permit (GP #17-0072)
20. All other equipment, materials, work, and installation to result in a complete operable system, whether or not expressly included in Exhibit B (Estimated Cost of Improvements)

EXHIBIT B

ESTIMATED COST OF IMPROVEMENTS

(Attached behind)

CITY OF SANTA PAULA
TRACT 5854

EA1 WELL 7 AND TREATMENT WORKS FOR WELL NO'S 7 AND 8

PRELIMINARY ESTIMATE OF COSTS
05/24/2024

Item	Description	Qty.	Unit	Unit Cost	Extended Cost
1	Mobilization/Traffic Control/Erosion Control	1	JOB	100000.00	$100,000
				Subtotal 1	***$100,000***
2	Well Pump and Appurtenances				
	a) Well pump; 2500 GPM to 370' TDH Goulds Model DWT-DITM 14RJHC-5 Stage	1	EA	105000.00	$105,000
	b) Motor: 350 HP, US Motors, inverter duty	1	EA	50000.00	$50,000
	c) 12" Steel collumn pipe, shaft and tubing	280	LF	285.00	$79,800
	d) Installation	1	JOB	35000.00	$35,000
	e) Start-up	1	JOB	3000.00	$3,000
				Subtotal 2	***$272,800***
3	LoPrest Iron and Manganese Filter Tank and Appurtenances per Scope of Supply, and Proposal				
	a) 3-Tank system, each tank 2000 GPM capacity, max 4000 GPM with redundancy of 2000 GPM; Materials as described in scope of supply. (Start-up included)	3	EA	616700.00	$1,850,100
	b) Installation	3	EA	150000.00	$450,000
				Subtotal 3	***2,300,100***
4	Site Paving				
	a) 8" PCC	10,950	SF	25.00	$273,750
				Subtotal 4	***$273,750***
5	Reinforced Concrete Foundations				
	a) Electrical Panel	3	YDS	1500.00	$4,500
	b) Filter Tanks	210	YDS	1500.00	$315,000
	c) Chlorine Enclosure	3	YDS	1500.00	$4,500
	d) Genset	12	YDS	1500.00	$18,000
	e) Tool Shed	4	YDS	1500.00	$6,000
	f) Well Pump	4	YDS	1500.00	$6,000
	g) Booster Pump	4	YDS	1500.00	$6,000

EA1 WELL 7 AND TREATMENT WORKS FOR WELL NO'S 7 AND 8

Item	Description	Qty.	Unit	Unit Cost	Extended Cost
				Subtotal 5	***$360,000***
6	Chlorination Enclosure and Related				
	a) Fiberglass enclosure	1	EA	52250.00	$52,250
	b) Water sample station	3	EA	4730.00	$14,190
	c) Eyewash sink	1	EA	4620.00	$4,620
				Subtotal 6	***$71,060***
7	Site Piping, Fittings and Valves				
	a) 4" Class 350 Ductile Iron Pipe	380	LF	105.00	$39,900
	b) 6" Class 350 Ductile Iron Pipe	90	LF	150.00	$13,500
	c) 12" Class 350 Ductile Iron Pipe	600	LF	190.00	$114,000
	d) 14" Class 350 Ductile Iron Pipe	110	LF	220.00	$24,200
	e) 16" Class 350 Ductile Iron Pipe	80	LF	250.00	$20,000
	f) 2" Check valve	1	EA	1045.00	$1,045
	g) 3" Check valve	1	EA	1320.00	$1,320
	h) 12" Check valve	1	EA	10560.00	$10,560
	i) 4" Adaptor	6	EA	500.00	$3,000
	j) 4" 22° Reducer, FLG, DI	4	EA	511.50	$2,046
	k) 4" 90° Elbow, FLG, DI	8	EA	539.00	$4,312
	l) 6" Adaptor	2	EA	975.00	$1,950
	m) 6" 45° Elbow, FLG, DI	2	EA	605.00	$1,210
	n) 6" 90° Elbow, FLG, DI	2	EA	649.00	$1,298
	o) 12" Adaptor	12	EA	2632.00	$31,584
	p) 12" 22 ½° Elbow, FLG, DI	1	EA	1540.00	$1,540
	q) 12" 45° Elbow, FLG, DI	8	EA	1650.00	$13,200
	r) 12" 90° Elbow, FLG, DI	18	EA	1815.00	$32,670
	s) 12" x 10" Reducing 90° Elbow, FLG, DI	1	EA	1870.00	$1,870
	t) 16" Adaptor	6	EA	5625.00	$33,750
	u) 16" 45° Elbow, FLG, DI	2	EA	2266.00	$4,532
	v) 16" 90° Elbow, FLG, DI	8	EA	2475.00	$19,800

EA1 WELL 7 AND TREATMENT WORKS FOR WELL NO'S 7 AND 8

Item	Description	Qty.	Unit	Unit Cost	Extended Cost
	w) 12" Fabricated Tee, FLG, Steel with 2" Welded Half-Coupling Epoxy Lined and Coated	1	EA	4500.00	$4,500
	x) 16" x 12" Fabricated Tee, FLG, Steel, Epoxy Lined and Coated	1	EA	7370.00	$7,370
	y) 16" x 14" Reducer, FLG, DI	1	EA	2035.00	$2,035
	z) 16" x 12" Reducer, FLG, DI	1	EA	1903.00	$1,903
	aa) 10" Adaptor	1	EA	1525.00	$1,525
	bb) 12" FLG Flex Coupling with Factory Supplied Control Assembly	1	EA	5060.00	$5,060
	cc) 12" Victaulic Coupling	1	EA	1650.00	$1,650
	dd) 12" x 4" Tee, FLG, DI	1	EA	1826.00	$1,826
	ee) 12" x 8" Tee, FLG, DI	1	EA	2024.00	$2,024
	ff) 12" x 10" Tee, FLG, DI	1	EA	2288.00	$2,288
	gg) 14" Adaptor	1	EA	3750.00	$3,750
	hh) 12" x 10" Reducer, FLG, DI	2	EA	1188.00	$2,376
	ii) 48" Square Precast Concrete Catch Basin/Sump and Cover, 12' depth +/-	2	EA	8360.00	$16,720
	jj) 4" RW Gate Valve, FLG	6	EA	1650.00	$9,900
	kk) 6" RW Gate Valve, FLG	4	EA	2200.00	$8,800
	ll) 8" RW Gate Valve, FLG	1	EA	3300.00	$3,300
	mm) 12" RW Gate Valve, FLG	8	EA	4950.00	$39,600
	nn) 16" RW Gate Valve, FLG	3	EA	1980.00	$5,940
	oo) 12" Flextend	1	EA	19000.00	$19,000
	pp) 10" Flextend	1	EA	14000.00	$14,000
	qq) STD Manhole and Cover, 5' DIA, 12' depth +/-	1	EA	7500.00	$7,500
	rr) In Manhole Backwater Valve Installation	1	EA	40000.00	$40,000
				Subtotal 7	***$578,354***
8	Specialty Valving				
	a) 8" Pressure Relief/Surge Antisipator Valve	1	EA	20900.00	$20,900
	b) 10" Deep Well Pump Control Valve	1	EA	35200.00	$35,200
	c) 12" Solenoid/Rate of Flow Control Valve	1	EA	45000.00	$45,000

EA1 WELL 7 AND TREATMENT WORKS FOR WELL NO'S 7 AND 8

Item	Description	Qty.	Unit	Unit Cost	Extended Cost
				Subtotal 8	***$101,100***
9	Sunshades/Electrical Cover/Canopies				
	a) Well pump cover/sunshade with removable roof panels, 12' x 16.5'	1	EA	26000.00	$26,000
	b) Booster pump cover/sunshade with removable roof panels, 10' x 23'	1	EA	28000.00	$28,000
	c) Electrical cover/sunshade/canopy	1	EA	19000.00	$19,000
				Subtotal 9	***$73,000***
10	120,000 Usable Gallon Welded Steel Backwash Tank with Knuckle				
	a) Engineering and ringwall foundation construction	1	JOB	95000.00	$95,000
	b) Tank erection	1	JOB	360000.00	$360,000
	c) Internal/External coating	1	JOB	130000.00	$130,000
	d) Cathodic protection system	1	JOB	40000.00	$40,000
	e) Third party inspection services	1	JOB	25000.00	$25,000
				Subtotal 10	***$650,000***
11	Electrical Panels, Conduits and Conductors				
	a) Materials and Installation	1	JOB	274600.00	$274,600
				Subtotal 11	***$274,600***
12	Genset				
	a) 350 kW Unit including automatic transfer switch	1	EA	136000.00	$136,000
	b) Automatic transfer switch	1	EA	20000.00	$20,000
				Subtotal 12	***$156,000***
13	SCADA System				
	a) Materials	1	LOT	90000.00	$90,000
	b) Installation Labor	1	JOB	190000.00	$190,000
	c) Integration	1	JOB	52000.00	$52,000
	d) Radio Antenna	1	EA	20000.00	$20,000
				Subtotal 13	***$352,000***
14	Painting and Coating				
	a) Above ground piping and appurtenances	1	JOB	100000.00	$100,000

CITY OF SANTA PAULA
TRACT 5854

EA1 WELL 7 AND TREATMENT WORKS FOR WELL NO'S 7 AND 8

Item	Description	Qty.	Unit	Unit Cost	Extended Cost
	b) Third party inspection services	1	JOB	10000.00	$10,000
				Subtotal 14	***$110,000***
15	Disinfection and Testing				
	For system approval	1	JOB	50000.00	$50,000
				Subtotal 15	***$50,000***
16	Water Meter				
	12" Electronic unit	1	EA	19800.00	$19,800
				Subtotal 16	***$19,800***
17	Street/General Improvements				
	a) Per Jensen Design and Survey	1	JOB	294902.80	$294,902.80
				Subtotal 17	***$294,902.80***
18	Removal and Adjustments				
	a) Per Jensen Design and Survey	1	JOB	2530.00	$2,530
				Subtotal 18	***$2,530***
19	Drainage Improvements				
	a) Per Jensen Design and Survey	1	JOB	63016.80	$63,016.80
				Subtotal 19	***$63,016.80***
				Subtotal Items 1-19	6,103,013.60
				Contingencies @ 25%	1,525,753.40
				GRAND TOTAL	**$7,628,767[1],[2],[3]**

PROJECTED INCREASE IN PROJECT COST DUE TO INFLATION (ASSUMED AT 5%)			
2024 Cost	**2025 Cost**	**2026 Cost**	**2027 Cost**
$7,628,767	$8,010,205	$8,410,715	$8,831,251

Prepared by:

REGISTERED PROFESSIONAL ENGINEER
LOUIS M. NAGY
No. 047648
CIVIL
STATE OF CALIFORNIA

5/24/2024

WREA
Water Resource Engineering Associates
Civil and Environmental Engineers in Water and Wastewater

[1] Grand Total does not include sales tax.
[2] The project is costed out as non-prevailing wage.
[3] Permit fees are not included in this estimate.

EXHIBIT C

FEB. 7, 2024 WATER FACILITIES LETTER

(Attached behind)

CITY OF SANTA PAULA
PUBLIC WORKS LAND DEVELOPMENT SERVICES
970 E. Ventura Street
Santa Paula, California 93060

February 7, 2024

David Lauletta
Limoniera Lewis Community Builders

VIA EMAIL to david.lauletta@lewismc.com

Subject: East Area 1 Water Facilities Delivery – Tract 6001

Dear David,

This letter is to clarify and document the agreed schedule of delivery to the City of Santa Paula for water facilities and related improvements in East Area 1 and specifically as relates to the development and occupancy of Tract 6001. Tract 6001 is owned by Lewis Limoneira Community Builders and is currently approved for 554 housing units in the Harvest at Limoneira Specific Plan Area II, also known as the Foothill Neighborhood.

The updated Water Master Plan dated December 23, 2023 for East Area 1 describes certain water facilities to service the 200 and 330 pressure zones in Tract 6001. The major water facilities in addition to piping, equipment, and related improvements for water service to Tract 6001 include a three-million-gallon water tank (200 zone), Wells No. 6 and 7, two 756,000-gallon tanks (330 zone), and booster pump (connecting 200 zone to 330 zone nx is required for operation of the two 756,000-gallon tanks).

The following schedule of delivery milestones are mutually agreed upon for these major water improvements:

Major Water Facility	Current Status	Delivery Milestone
Three-million-gallon water tank (200 zone)	Not connected to the City water system. The tank and tank site are constructed.	Pipeline connection to be constructed in Limoneira Lane with Tract 6001 backbone improvements and for "substantial completion" prior to 1st occupancy for Tract 6001.
Well No. 6	Not connected to the City water system. The down well, well head and well site are constructed.	Pipeline connection via Autumn Path Lane through Tract 5989 existing water system to be completed prior to 1st occupancy for Tract 6001.
Well No. 7	The down well is drilled and the well site and well head designs are nearing completion.	Shall be "Substantially completed" by the 1,000th certificate of occupancy in the East Area 1 Project[1].

Major Water Facility	Current Status	Delivery Milestone
Two 756,000 gallon tanks (Portion of 330 zone)	Tank site and tanks design are nearing completion. LLCB is considering reducing the size of the tanks. City does not require oversizing. Water analysis and design for Tract 6001 requires completion of 330-zone for water supply.	Shall be "Substantially completed" by the 1,000th certificate of occupancy in the East Area 1 Project[1] or prior to 1st occupancy in Tract 6001, whichever occurs first.
Booster pump (Portion of 330 Zone connecting to 200 zone for delivery)	Design complete & coordinating final approval. Water analysis and design for Tract 6001 requires completion of 330-zone for water supply.	Shall be "Substantially completed" by the 1,000th certificate of occupancy in the East Area 1 Project[1] or prior to 1st occupancy in Tract 6001, whichever occurs first.

[1]Per East Area 1 First Amended Restated Development Agreement Section 3.2.1

"Substantially completed" means the facilities are functional and can be utilized. Facilities do not have to be finally accepted by the City and can be on temporary power or rental generators to be in compliance with this delivery schedule.

This delivery schedule is intended to fully comply with all requirements set forth in the East Area 1 First Amended Restated Development Agreement, as amended, and the Tract 6001 project conditions of approval and shall not be construed to modify the terms or intent of said documents in any way.

Respectfully,

Clete Saunier
Public Works Director
csaunier@spcity.org

Cc: James Mason, Community & Economic Development Director
Bob Woodward, City Engineer
Roxanne Hughes, Deputy City Engineer – Land Development
Frank Almazan, Water Operations Superintendent

EXHIBIT B

WELL 8 OFFSITE IMPROVEMENT AGREEMENT

[Attached behind]

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City Clerk
City of Santa Paula
970 Ventura Street
Santa Paula, CA 93060

No fee per Government Code § 6103

APNs 107-0-230-015, 107-0-220-025

HARVEST AT LIMONEIRA
OFFSITE IMPROVEMENT AGREEMENT

WELL NO. 8

THIS AGREEMENT ("Agreement") is made and entered into this ___ day of _____, 2024 ("Effective Date"), by and between the CITY OF SANTA PAULA, a general law city and municipal corporation ("CITY") and LIMONEIRA LEWIS COMMUNITY BUILDERS, LLC, a Delaware Limited Liability Company ("DEVELOPER"). Capitalized terms not otherwise defined in this Agreement will have the meanings attributed to them in the Development Agreement.

The Parties agree as follows:

1. **RECITALS**. This Agreement is made with reference to the following facts and objectives:

A. On or about February 26, 2015, the City and Limoneira Company entered into an Amended and Restated Development Agreement ("Original Development Agreement") for developing the area commonly known as "East Area 1" for a mixed-use planned community ("Project") on real property shown in Tract Map No. 5854 recorded in the Official Records of Ventura County ("Official Records") on December 28, 2017, as Document No. 20171220-00164292-0 ("Property").

B. The Original Development Agreement was recorded in the Official Records on April 27, 2015, as Document No. 20150427-00062760-0. On or about September 21, 2015, DEVELOPER became the successor in interest to the rights and obligations of Limoneira Company pertaining to the Original Development Agreement.

C. The Original Development Agreement was amended by the First Amendment to the Development Agreement, dated March 18, 2020

("Amendment No. 1"), and by the Second Amendment to the Development Agreement, dated April 21, 2021 ("Amendment No. 2"), and the Third Amendment to the Development Agreement, dated March 23, 2024 ("Amendment No. 3").

D. The Original Development Agreement has been further clarified and supplemented by Operating Memoranda Nos. 1 - 8 (collectively, the "Operating Memoranda") on file with the City. The Original Development Agreement, as amended by Amendment Nos. 1, 2, and 3, and the Operating Memoranda are collectively referred to herein as the "Development Agreement."

E. Pursuant to the Development Agreement, DEVELOPER must construct certain public improvements known as Well No. 8 ("Improvements"). The Improvements will be constructed in accordance with plans and specifications on file with CITY known as City Drawing No. 40.35.109 by DEVELOPER's contractor Water Resource Engineering Associates ("WREA") and generally described in the attached **Exhibit A.**

F. Section 7.1.2 of the Development Agreement requires DEVELOPER to provide improvement security for the Improvements to the extent they are not financed by a Financing Mechanism. The Acquisition Agreement defined in Section 14, below, together with the CFD No. 1 formation documents, is a Financing Mechanism.

G. Section 14 of the Acquisition Agreement provides that DEVELOPER must secure construction of the Improvements with a bond or other security, but that such bond amount must be reduced by amounts of CFD proceeds dedicated for the Improvements as the City "determine[s] is appropriate."

2. **CONSTRUCTION OF IMPROVEMENTS.** At its sole cost and expense, DEVELOPER agrees to furnish all labor, materials, tools, equipment, and incidentals, and for doing all the work necessary to complete the Improvements set forth in the approved plans and specifications and in conformance with the Approvals (as that term is defined in the Development Agreement), CITY standards, and federal and state requirements.

3. **ESTIMATED COST OF IMPROVEMENTS.**

A. The estimated hard costs of the Improvements is $1,958,400 inclusive of a 20% contingency ("Estimated Hard Costs").

B. A copy of the Estimated Hard Costs is attached hereto as **Exhibit B** and incorporated by this reference.

C. The estimated soft costs to complete the Improvements include final

design, permits, future price inflation, construction management, project management, and inspections at an estimated cost of $163,200 ("Estimated Soft Costs").

D. The combined total of Estimated Hard Costs and Estimated Soft Costs is $2,121,600 (hereafter, the "Total Estimated Costs").

4. **MODIFICATIONS TO TOTAL ESTIMATED COSTS.**

A. The Estimated Hard Costs in **Exhibit B** shall not be increased by more than five percent (5%) without DEVELOPER delivering written notice to the City Engineer. If during the course of construction of the Improvements, DEVELOPER is presented with a change order or set of change orders that would increase the Estimated Hard Costs secured by a bond by more than 15%, DEVELOPER must receive the approval of City Engineer before approving the change order(s), which shall not be unreasonably withheld or conditioned, subject only to the City Engineer's right to require, pursuant to Subsection B below, a corresponding increase in the amount of the bonds for such Improvements.

B. Should the Total Estimated Costs bonded for be inadequate to cover increased costs to complete the Improvements, the City Engineer may require, and Developer will comply with, an increase in the bond coverage to reflect the increased costs for constructing the Improvements to ensure adequate bonds are in place. To the extent such costs exceed the Total Estimated Costs, the bonds applicable to such Improvements shall be increased by the difference.

5. **TIME FOR COMPLETION.** DEVELOPER shall substantially complete the Improvements before issuance of the first certificate of occupancy within future Tract Map No. 6000 (Phase III – Santa Paula Creek Neighborhood). Improvements will be deemed completed when the Public Works Director, or designee, certifies that the Improvements have been substantially completed in accordance with all approved plans and legal requirements. Pursuant to Section 7.2.1 of the Development Agreement, CITY must cooperate with Developer and take all actions necessary and appropriate to facilitate timely completion of the Improvements. CITY's City Manager, in his/her reasonable discretion, may approve extensions of time upon submittal of a written request from DEVELOPER.

6. **COMPLETION BY CITY.** Should DEVELOPER fail to complete the Improvements within the time for completion in breach of the terms of this Agreement, CITY, at its option, may enter onto DEVELOPER's property to complete the Improvements and satisfy Section 5, above, at DEVELOPER's cost. This option is in addition to any other remedies available to CITY.

7. **INSPECTION; CONSTRUCTION; FINAL ACCEPTANCE.**

A. DEVELOPER will provide on-site construction management to supervise construction and ensure the Improvements are completed in accordance with the plans approved by the City Engineer. The DEVELOPER shall have responsibility to ensure that the construction is accomplished in accordance with the approved plans and specifications. The DEVELOPER's construction manager shall submit timely requests for inspection by City and/or other required public agencies as needed throughout project construction.

B. The City Engineer shall have the right to inspect the construction of the Improvements to confirm that the construction is accomplished in accordance with the approved plans. City personnel shall have access to the construction at all reasonable times for the purpose of accomplishing such inspection.

C. After DEVELOPER's contractor has completed the Improvements, provide a certification of operation readiness and water quality test, and prior to a state permit to connect to the City public drinking water system, DEVELOPER shall request a final inspection of such work, and the work shall be inspected, approved and accepted in strict compliance with the terms of Government Code section 66499.7.

D. No inspection or acceptance pertaining to specific parts of the Improvements shall be construed as final acceptance of any part until the overall final acceptance of the Improvements is made by the CITY in accordance with Government Code section 66499.7 and the Development Agreement. Final acceptance shall not constitute a waiver by CITY of defective work subsequently discovered.

E. DEVELOPER will contract with WREA, or equivalent qualified level civil engineer as engineer of record to provide construction support services and provide certified as-built plans to the CITY prior to final acceptance of the Improvements.

F. Upon completion of the Improvements and final acceptance by the CITY, DEVELOPER shall promptly file a Notice of Completion with the City Clerk for recordation at the Ventura County Recorder's Office.

8. **CONTINUOUS WORK ON THE IMPROVEMENTS**. DEVELOPER shall cause construction of the Improvements to be diligently pursued to completion, and shall not abandon the work for a consecutive period or more than sixty (60) days, events of Force Majeure excepted.

9. **WARRANTY OF IMPROVEMENT PLANS.** DEVELOPER warrants that the plans and specifications for the Improvements shall conform to the Approvals (as the term is defined in the Development Agreement), together with all conditions made a part of such Approvals. Except as directed by CITY, DEVELOPER further warrants that the plans and specifications can be relied upon to accomplish the Improvement work covered by this Agreement in a good, workmanlike manner and in accordance with accepted construction practices. Should the plans and specifications at any time before final acceptance of the Improvements prove to be inadequate in any respect except to the extent said plans and specifications were directed by the CITY, DEVELOPER agrees to make such changes reasonably deemed necessary by CITY to complete the Improvements in a good, workmanlike manner and in accordance with accepted construction practices. DEVELOPER further agrees to make or cause to be made such engineering, soils and other reports as may be required by CITY.

10. **CITY NOT LIABLE FOR PLANS AND SPECIFICATIONS**. CITY is not an insurer or surety for the design or construction of the Project. And CITY, its officers, officials, employees, agents, representatives, and certified volunteers are not liable or responsible for any claim arising during construction of the Project or Improvements, unless it can be shown that such person directed that the Project or Improvements be designed or constructed in a manner contrary to the wishes and desires of DEVELOPER, and DEVELOPER filed a written objection or equivalent notice with the City Engineer before commencing such work or Improvement.

11. **WARRANTY OF WORK.** DEVELOPER warrants that the Improvements will be constructed in conformance with the approved plans and specifications, CITY standards, and the highest industry standards. Should any Improvement fail to comply with this warranty or any other provision of this Agreement within one (1) year after CITY's final acceptance, DEVELOPER shall, without delay and without cost to CITY, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements. Should DEVELOPER fail to act promptly or in accordance with this requirement or should the exigencies of the case require repairs or replacements to be made before DEVELOPER can be notified, CITY will, at its option, make the necessary repairs, replacements, or reconstruction, as determined by CITY. DEVELOPER shall pay to CITY the actual cost of such repairs, replacements, or reconstruction plus CITY's administrative costs. This section is not a waiver of any other right CITY may have for correcting faulty workmanship or defective materials.

12. **REPAIRS AND REPLACEMENTS.** DEVELOPER shall repair or replace, as reasonably determined by CITY, Improvements and monuments destroyed or damaged by DEVELOPER's actions and to repair or replace, as reasonably determined by CITY, any property damaged or destroyed by DEVELOPER. Any such repair or replacement shall be completed to CITY's reasonable satisfaction and approval, and at no cost to CITY and not limited by any surety bond required in this Agreement.

13. **CITY'S RIGHT OF ENTRY**. DEVELOPER grants CITY right of entry to DEVELOPER's property, to the extent applicable, to inspect the Improvements constructed by DEVELOPER and to ensure compliance with this Agreement.

14. **CONTRACT SECURITY.**

A. Upon City Council approval of the final map for Tract No. 6000, DEVELOPER shall furnish:

i. A surety bond in an amount equal to at least one hundred percent (100%) of the Total Estimated Costs as security for the faithful performance of this Agreement, in the amount of $2,121,600.

ii. A separate surety bond in an amount equal to at least one hundred percent (100%) of the Estimated Hard Costs for said Improvements as security for the payment of all persons performing labor and furnishing materials in connection with this Agreement.

B. The surety bonds in Subsection A. shall be paid and in effect until the earlier to occur of (i) CITY's final acceptance of the Improvements and receipt of warranty bonds in accordance with the warranty required by Section 11 and 14, or (ii) receipt in CITY's account of CFD bond sale proceeds from Harvest Community Facilities District No. 1 sufficient to fund the Improvements and designated for that purpose. Should another jurisdiction with authority over the Improvements project require security for the Improvements that are duplicative of the amounts set forth in this Agreement, the parties will cooperate in good faith to ensure that DEVELOPER is not required to incur the cost of bonding twice for the Improvements and to ensure that CITY and any other agency requiring bonding are adequately secured, such as adding one or more of the agencies as an obligee to the surety in an appropriate rider to the bonds furnished to the lead agency for the Improvements. Additionally, pursuant to Government Code 66499.5, CITY acknowledges the Improvements contemplated herein are financed and installed pursuant to special assessment proceedings and, in accordance with Santa Paula Municipal Code § 16.80.950 and DEVELOPER's satisfaction of same, agrees that, upon furnishing by the contractor of the faithful performance and labor and material bonds required by the special assessment act being used, the improvement security of the DEVELOPER shall be reduced by an amount corresponding to the amount of such bonds so furnished by the contractor.

C. CFD bond sale proceeds will be paid to DEVELOPER upon completion of the Improvements by DEVELOPER and acquisition of the Improvements by CITY pursuant to this Agreement and the terms of the Funding, Construction and Acquisition Agreement for Harvest Community Facilities

District No.1 dated as of March 1, 2017, as may be amended ("Acquisition Agreement"). In the event there are insufficient CFD bond proceeds, the CITY will not be responsible for reimbursing DEVELOPER for the Improvements, and pursuant to Section 15 of the Acquisition Agreement, the CITY is only required to reimburse DEVELOPER for those Public Facilities (as the term is defined in the Acquisition Agreement) which can be reimbursed with the total of the amount of available bond sale proceeds. Nothing herein shall relieve DEVELOPER from its obligation to complete the Public Facilities pursuant to the terms of this Agreement and the Development Agreement.

D. In accordance with Section 14 of the Acquisition Agreement, the CITY will reduce the aggregate principal amount of the surety bonds by such amount as it determines is appropriate to allocate to the Improvements, upon receipt of the bond sale proceeds.

15. **WARRANTY BONDS.** Prior to CITY's final acceptance of the Improvements, DEVELOPER shall file with the CITY a bond guaranteeing the warranty requirements of Section 11 in the amount of at least ten percent (10%) of the Total Estimated Costs. This warranty bond will be released one year after final acceptance of the Improvements, subject to CITY's timely inspection of the Improvements and determination that the Improvements are free of defects.

16. **PERFORMANCE BY CITY OR SURETY**.

A. Should DEVELOPER fail to construct the Improvements in the manner and at such locations as specified within the time requirements of this Agreement, or if DEVELOPER is not carrying out the intent of this Agreement, CITY may serve written notice upon DEVELOPER and the surety on DEVELOPER's faithful performance bond demanding satisfactory compliance with this Agreement.

B. Should CITY serve such written notice, CITY may do any one, or combination of, the following:

i. Serve written notice upon the surety on its faithful performance bond demanding satisfactory compliance with this Agreement. In such event the surety must, within five (5) days, assume control and construct the Improvements as DEVELOPER'S successor;

ii. CITY may construct the Improvements itself, or by contract, at DEVELOPER's expense on a time and materials basis. In such event, CITY may take possession of and utilize in completing the Improvements' construction, materials, appliances, and other

property belonging to DEVELOPER as may be on the site of the work without liability to CITY. DEVELOPER's surety will be liable to CITY for any excess cost of damages incurred by CITY.

C. Nothing in this Section waives, or serves as a limitation upon, any additional remedy CITY may have under this Agreement or applicable law.

17. **SURETY BOND TO INCLUDE LETTER OF CREDIT.** The term "surety bond" also includes such other acceptable security, such as letters of credit or cash deposit agreements issued by responsible financial institutions, which are approved by the City Attorney. The term "surety" includes the issuer of any letter of credit or cash deposit agreement, which is acceptable to CITY as security for the performance of this Agreement. Sureties must be admitted to do business in the State of California.

18. **BEST MANAGEMENT PRACTICES**. DEVELOPER agrees to use best management practices ("BMPs"), as that term is defined under applicable law including, without limitation, the Santa Paula Municipal Code, in constructing the improvements anticipated by this Agreement. DEVELOPER's failure to comply with the terms of this Section constitutes a material breach of this Agreement.

19. **OWNERSHIP OF DOCUMENTS.** All documents, data, studies, drawings, maps, models, photographs and reports specific to the improvements identified herein prepared by DEVELOPER under this Agreement are CITY's property. DEVELOPER may retain copies of said documents and materials as desired but must deliver all original materials to CITY upon CITY's written notice.

20. **INDEPENDENT CONTRACTOR.** CITY and DEVELOPER agree that DEVELOPER will act as an independent contractor and will have control of all work and the manner in which it is performed. DEVELOPER will be free to contract for similar service to be performed for other employers while under contract with CITY. DEVELOPER is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct DEVELOPER as to the details of doing the work or to exercise a measure of control over the work means that SUBDIVIDER will follow the direction of CITY as to end results of the work only.

21. **PREVAILING WAGES**. Pursuant to Section 7.2.5 of the Development Agreement, DEVELOPER agrees, covenants, and warrants that the development of the Improvements shall comply with all applicable federal and state labor laws (including, without limitation, the requirement under California law to pay prevailing wages and hire apprentices), and all obligations as set forth herein. CITY makes no representations concerning prevailing wages in compliance with California Labor Code Section 1770 et seq.

22. **INDEMNIFICATION.**

A. DEVELOPER indemnifies and holds CITY harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising out of this Agreement, or its performance. Should CITY be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, DEVELOPER must defend CITY (at CITY's request and with counsel satisfactory to CITY) and indemnify CITY for any judgment rendered against it or any sums paid out in settlement or otherwise.

B. For purposes of this section "CITY" includes CITY's officers, officials, employees, agents, representatives, and certified volunteers.

C. The Parties agree that this section will remain in full force and effect until the Improvements have been formally accepted by CITY.

D. The requirements as to the types and limits of insurance coverage to be maintained by DEVELOPER, and any approval of such insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by DEVELOPER pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

23. **INSURANCE**.

A. Before commencing performance under this Agreement, and at all other times this Agreement is effective, Developer shall procure and maintain, and shall require its contractors and subcontractors to procure and maintain, the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

Type of Insurance	Limits
Commercial General Liability (Bodily Injury, Personal Injury, and Property Damage)	$5,000,000 Occurrence
Commercial Automobile Liability (Any Auto Hired and Non-Owned Liability)	$2,000,000 Per Accident

Worker's Compensation	Statutory
Employers Liability (Bodily Injury by Accident)	$1,000,000 Each Accident

B. The amount of insurance set forth above will be a per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies must be endorsed to name CITY, its officers, officials, agents, employees and volunteers as "additional insureds" under said insurance coverage and to state that such insurance will be deemed "primary" such that any other insurance that may be carried by CITY will be excess thereto. Such insurance will be on an "occurrence," not a "claims made," basis and will not be cancelable or subject to reduction except upon thirty (30) days' prior written notice to CITY.

C. DEVELOPER must furnish and require its contractors and subcontractors to furnish to CITY duly authenticated Certificates of Insurance evidencing maintenance of the insurance required under this Agreement and such other evidence of insurance or copies of policies as may be reasonably required by CITY from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII." Certificate(s) must reflect that the insurer will provide thirty (30) day notice of any cancellation of coverage. DEVELOPER will require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

24. **NOTICES.**

A. Unless expressly stated otherwise, all notices given or required to be given pursuant to this Agreement will be in writing and may be given by personal delivery or by mail. Notice sent by mail will be addressed as follows:

If to the City
City of Santa Paula
Public Works Department
Attn: Clete J. Saunier, P.E., Public Works Director
P.O. Box 569
Santa Paula, CA 93061-0569

If to the Developer
Limoneira Lewis Community Builders LLC
c/o Lewis Management Corporation

Attn: David Lauletta
133 N. 10th Street
Santa Paula, CA 93060

B. When addressed in accordance with this Section, notices will be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices will be deemed given at the time of actual delivery.

C. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

25. **COMPLIANCE WITH LAW.** DEVELOPER will comply with all laws applicable to this Agreement including, without limitation, federal, state, and local laws requiring permitting and licenses. All such compliance will be at DEVELOPER's own cost.

26. **FORCE MAJEURE.** Developer's time for commencement and completion of the Improvements shall be extended for the period of any delay due to one more of the following circumstances beyond the control and without the fault of DEVELOPER ("Force Majeure"): adverse weather conditions; flood; earthquakes; strikes; lockouts; acts of God; enemy action; civil commotion; acts or failures to act of a public agency (including, without limitation, delay in the issuance of permits or approvals by governmental authorities that are required for the work); fire or other casualty; failure or inability to secure materials or labor; changes in local, state or federal laws or regulations; pandemics; epidemics; lack of financing due to generally applicable economic conditions affecting the capital markets generally; and strikes and other organized labor action occurring at the project site and the effects thereof on the work, only to the extent such strikes and other organized labor action are beyond the control of DEVELOPER, its contractors, and its subcontractors, of every tier, and to the extent the effects thereof cannot be avoided by use of replacement workers. DEVELOPER shall be required to provide CITY with timely notice of the facts and circumstances constituting or giving rise to the Force Majeure event and to keep the CITY fully apprised with respect thereto. The parties shall meet as early as reasonably practicable, in no event later than one (1) month of the Force Majeure event, to discuss the event, agree on any additional actions to be taken by either party, and document the agreed length of delay caused by the Force Majeure event. The City Manager shall evaluate and approve or deny all claims to Force Majeure made by the DEVELOPER and the decision of the City Manager shall be the final determination of the City, subject only to judicial review.

27. **CONSTRUCTION.** The language of each part of this Agreement will be construed simply and according to its fair meaning, and this Agreement will never be construed either for or against either party.

28. **SEVERABLE.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect.

29. **CAPTIONS.** The captions of the paragraphs of this Agreement are for convenience of reference only and will not affect the interpretation of this Agreement.

30. **WAIVER.** Waiver of any provision of this Agreement will not be deemed to constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver.

31. **GOVERNING LAW.** This Agreement has been made in and will be construed in accordance with the laws of the State of California and exclusive venue for any action involving this Agreement will be in the County of Ventura.

32. **AUTHORITY/MODIFICATION.** This Agreement is subject to and conditioned upon approval and ratification by the Santa Paula City Council. This Agreement is not binding upon CITY until executed by the City Manager. The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written agreement. CITY's City Manager may execute any such amendment on behalf of CITY.

33. **BINDING UPON SUCCESSORS**. The terms of this Agreement constitute a burden and benefit upon the Property. Accordingly, this Agreement will be recorded and the terms will run with the Property and become binding upon DEVELOPER's heirs, successors and assigns.

34. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF SANTA PAULA,
a municipal corporation

Dan Singer,
City Manager

LIMONEIRA LEWIS COMMUNITY BUILDERS, LLC,
a Delaware Limited Liability Company

David Lauletta,
Authorized Agent

ATTEST:

Julie Latshaw,
City Clerk

APPROVED AS TO FORM:

Monica Castillo,
City Attorney

EXHIBIT A

DESCRIPTION OF IMPROVEMENTS

1. 1,500 GPM Well pump and column pipe
2. Well head piping and valves
3. Removable well pump and auxiliary pump sunshades
4. Electrical panel sunshade
5. 90,000 Gallon useable backwash water tank
6. System piping, valves and auxiliary pumps
7. Concrete equipment pads/slabs, site paving
8. Signaling and control system/SCADA interface
9. Electrical panels, conduits, wiring
10. Emergency standby generator
11. Sewer line connection
12. Potable water line connection
13. Raw water line connection
14. Area drains
15. Site fine grading
16. 8’ tall masonry screen wall
17. 16’ access gate
18. Geotechnical Design Recommendation Report by Leighton, and Storm Water Quality Management Program (SWQMP) per separate Grading Plan and Permit (GP #17-0072).
19. All other equipment, materials, work, and installation to result in a complete operable system, whether or not expressly included in Exhibit B (Estimated Cost of Improvements).

EXHIBIT B

ESTIMATED COST OF IMPROVEMENTS

(Attached behind)

Harvest at Limoneira
Well 8 Site

PRELIMINARY HARD COSTS ESTIMATE
8/14/2023, Rev. 9/27/2023

Item	Description	Unit	Qty.	Cost
1	Mobilization/Traffic Control/Demobilize	JOB	1	$30,000
2	250 HP Well Pump, Collumn Pipe, Materials, Installation, Startup	JOB	1	$250,000
3	Site Concrete: 8” PCC Paving and Individual Specific Foundations	JOB	1	$176,000
4	Site Piping and Valving	JOB	1	$264,000
5	Chlorination Building, Storage Tank, Pumps and Piping and Associated Equipment	JOB	1	$90,000
6	Electrical Cover and Sunshade with Removable Roof Hatch	SET	1	$45,000
7	Electrical/Switchgear/Security, Genset	JOB	1	$391,000
8	SCADA Instrumentation, Integration	JOB	1	$271,000
9	BLACOH Bladder Surge Tank 500 G, 6” Inlet/Outlet	JOB	1	$65,000
10	Painting and Coating Above Ground Piping and Appurtenances	JOB	1	$25,000
11	Disinfection and Testing	JOB	1	$25,000
			Subtotal =	$1,632,000
			Contingencies @ 20% =	$326,400
			GRAND TOTAL =	**$1,958,400**

Notes:
Several exclusions apply to this preliminary estimate, including (but not limited to):
1. Design and consultant fees, and permitting costs;
2. Improvements beyond modification of a water distribution system, and creation of a water yard;
3. System components added during final design and construction phase;
4. Sales tax.

Prepared by:

Water Resource Engineering Associates
Civil and Environmental Engineers in Water and Wastewater

CITY OF SANTA PAULA
MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Clete Saunier, Public Works Director

Subject: ENGEO PROFESSIONAL SERVICES AGREEMENT

Date: September 4, 2024

Agenda Item: 9.E

RECOMMENDATION:

Staff recommends that the City Council convene as the GHAD Board to:

1. Authorize the Chair to execute a One-Year Professional Services Agreement with ENGEO Incorporated to provide GHAD Manager services for the Santa Paula GHAD in a form approved by the City Attorney, in the amount of $39,969.00 for Fiscal Year 2024-2025 based on the City's approved two-year budget.

Prepared by: Andrew Sumanting, Administrative Analyst I

BACKGROUND:

In 2008, the Santa Paula City council formed the Santa Paula Geologic Hazard Abatement District (GHAD). The members of the City Council convene as the GHAD Board to conduct business related to setting the annual assessment rate and approving related expenditures for maintaining and repairing the GHAD's drainage, open space and geologic slope stabilization facilities.

ANALYSIS:

ENGEO Incorporated (ENGEO) has provided GHAD Management Services since 2014 to support the Santa Paula GHAD, with experience managing other GHADs throughout California. City staff requested ENGEO provide a proposal for professional GHAD Management Services in continual support of the technical and day-to-day operations of the Santa Paula GHAD. Additionally, on June 21, 2023, City Council approved a 2-year budget, which allocated $50,000 for Fiscal Year 2024-2025 for professional services for the Santa Paula GHAD. The proposed agreement will be retroactively effective from July 1, 2024 through June 30, 2025.

STRATEGIC PLAN:

This item is not a goal or objective in the City Council's two-year Strategic Plan.

FISCAL IMPACTS:

The Professional Services Agreement will be funded through the Santa Paula GHAD's account, is consistent with the approved City Council budget for FY 2024-2025, and will not impact any other City of Santa Paula accounts.

Fiscal Impact for Fiscal Year 2024-2025 is detailed in Table 1 below and additional details are provided in the ENGEO proposal attached as Exhibit A to the Professional Services Agreement (Attachment 1). Work will be invoiced on an hourly time and materials basis. The proposal budget total shall not be exceeded for each fiscal year's adopted budget without prior written authorization from the GHAD Board.

Table 1: Approved GHAD Budget vs. ENGEO Proposal for FY 24/25

Description	Budget	ENGEO PROPOSAL
Professional Services 503-5-5029-209	$50,000	$39,969

OPTIONS:

The Council has the following available alternative options to staff's recommendations:

1. Do not authorize the Chair to execute the Professional Services Agreement with ENGEO Incorporated at this time, but request staff to negotiate further with ENGEO Incorporated and return with a revised proposal. This action will result in a discontinuation of critically needed consultant services until a new agreement is approved.
2. Direct staff to pursue a new Request for Qualifications for professional services inviting other consultants to submit their qualifications for Board review and consideration at a future public meeting. This action will result in the same anticipated outcome as Option 1.

ATTACHMENTS:

Attachment 1 - ENGEO Professional Services Agreement.pdf

Attachment 1

PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE SANTA PAULA GEOLOGIC HAZARD
ABATEMENT DISTRICT AND ENGEO CORPORATION

SANTA PAULA GEOLOGIC HAZARD ABATEMENT DISTRICT
PROFESSIONAL SERVICES AGREEMENT
WITH ENGEO INCORPORATED
(FY 2024/2025)

1. PARTIES AND DATE.

This Agreement is made and entered into this 4th day of September, 2024, by and between the Santa Paula Geologic Hazard Abatement District, a political subdivision of the state organized under the laws of the State of California with its principal place of business at 970 Ventura Street, Santa Paula, CA 93060, County of Ventura, State of California ("GHAD") and ENGEO Incorporated, a California corporation, with its principal place of business at 27742 Hancock Parkway, Valencia, CA 91355 ("Consultant"). GHAD and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Superseded Agreement

The Parties enter into a Professional Service Agreement dated December 6, 2023 attached hereto as Exhibit "B" (Original Agreement"). The Original Agreement is hereby superseded and of no force and effect upon execution of this Agreement.

2.2 Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the GHAD on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing Geological Hazard Abatement District (GHAD) management and monitoring services to public clients, is licensed in the State of California, and is familiar with the plans of GHAD.

2.3 Project.

GHAD desires to engage Consultant to render such professional services for GHAD management and monitoring, Project No. 7290.002.024 ("Project"), as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the GHAD all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional GHAD management and monitoring consulting services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from July 1, 2024, to June 30,

2025, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Compensation.

3.2.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "A" attached hereto and incorporated herein by reference. The total compensation shall not exceed Thirty Nine Thousand Nine Hundred Sixty Nine Dollars and no cents ($39,969.00) without written approval of the GHAD Board of Directors, as applicable. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.2.2 Payment of Compensation. Consultant shall submit to the GHAD a monthly invoice which indicates work completed and hours of Services rendered by Consultant. The invoice shall describe the amount of Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the invoice. GHAD shall, within 30 days of receiving such invoice, review the invoice and pay all non-disputed and approved charges. If the GHAD disputes any of Consultant's fees, the GHAD shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth therein. Payment shall not constitute acceptance of any Services completed by Consultant. The making of final payment shall not constitute a waiver of any claims by the GHAD for any reason whatsoever.

3.2.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by the GHAD.

3.2.4 Extra Work. At any time during the term of this Agreement, GHAD may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by GHAD 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 Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the GHAD.

3.3 Responsibilities of Consultant.

3.3.1 Independent Contractor; Control and Payment of Subordinates. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. GHAD retains Consultant on an independent contractor basis and not as an employee. Any personnel performing the Services on behalf of Consultant shall not be employees of GHAD and shall at all times be under Consultant's exclusive direction and control. Neither GHAD, or any of its officials, officers, directors, employees or agents shall have control over the conduct of Consultant or any of Consultants officers, employees or agents, except as set forth in this Agreement. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding,

unemployment insurance, disability insurance, and workers' compensation insurance.

3.3.2 Timely Performance. Consultant shall perform the Services in a prompt and timely manner. Consultant represents that it has the professional and technical personnel required to perform the Services expeditiously.

3.3.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of the GHAD.

3.3.4 Substitution of Key Personnel. Consultant has represented to GHAD that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of GHAD. In the event that GHAD and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows: Haley Ralston and Uri Eliahu.

3.3.5 GHAD's Representative. The GHAD hereby designates Clete Saunier, Director of Santa Paula Public Works or his/her designee, to act as its representative in all matters pertaining to the administration and performance of this Agreement ("GHAD's Representative"). GHAD's Representative shall have the power to act on behalf of the GHAD for review and approval of all products submitted by Consultant but not the authority to enlarge the Scope of Services or change the total compensation due to Consultant under this Agreement. The GHAD Manager shall be authorized to act on GHAD's behalf and to execute all necessary documents which enlarge the Scope of Services or change the Consultant's total compensation subject to the provisions contained in this Agreement. Consultant shall not accept direction or orders from any person other than the GHAD Manager, GHAD's Representative or his/her designee.

3.3.6 Consultant's Representative. Consultant hereby designates Robert Boeche, or Haley Ralston his/her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his/her skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.3.7 Coordination of Services. Consultant agrees to work closely with GHAD staff in the performance of Services and shall be available to GHAD's staff, consultants and other staff at all reasonable times.

3.3.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant represents that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant warrants that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant

shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its subconsultants who is determined by the GHAD to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the GHAD, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.3.9 Period of Performance.

3.3.9.1 Consultant shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Consultant shall also perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibit "A" attached hereto, or which may be separately agreed upon in writing by the GHAD and Consultant ("Performance Milestones"). Consultant agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such Performance Milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the GHAD will suffer damage.

3.3.9.2 Neither GHAD nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing Party. For purposes of this Agreement, such circumstances include a Force Majeure Event. A Force Majeure Event shall mean an event that materially affects a Party's performance and is one or more of the following: (1) Acts of God or other natural disasters; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the services); (4) strikes and other organized labor action occurring at the site and the effects thereof on the services, only to the extent such strikes and other organized labor action are beyond the control of Consultant and its subcontractors, and to the extent the effects thereof cannot be avoided by use of replacement workers; and (5) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety, and other actions of a public agency applicable to the services and Agreement.

3.3.9.3 Should a Force Majeure Event occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Force Majeure Events and/or delays, regardless of the Party responsible for the delay, shall not entitle Consultant to any additional compensation. Notwithstanding the foregoing in this section, the City may still terminate this Agreement in accordance with the termination provisions of this Agreement.

3.3.10 Laws and Regulations; Employee/Labor Certification.

3.3.10.1 Compliance with Laws. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations

of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the GHAD to terminate the Agreement for cause.

3.3.10.2 Employment Eligibility; Consultant. Consultant certifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time and shall require all subconsultants and sub-subconsultants to comply with the same. Consultant certifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement.

3.3.10.3 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.3.10.4 Air Quality. To the extent applicable, Consultant must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Consultant shall indemnify GHAD against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

3.3.10.5 Water Quality Management and Compliance. Consultant shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the performance of the Services including, without limitation, all applicable provisions of the GHAD's ordinances regulating water quality and storm water; the Federal Water Pollution Control Act (33 U.S.C. § 1251, *et seq.*); the California Porter-Cologne Water Quality Control Act (Water Code § 13000 *et seq.*); and any and all regulations, policies, or permits issued pursuant to any such authority. Consultant must additionally comply with the lawful requirements of the GHAD, and any other municipality, drainage district, or other local agency with jurisdiction over the location where the Services are to be conducted, regulating water quality and storm water discharges. GHAD may seek damages from Consultant for delay in completing the Services caused by Consultant's failure to comply with the laws, regulations and policies described in this Section, or any other relevant water quality law, regulation, or policy.

3.3.10.6 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

3.3.11 Insurance.

3.3.11.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the GHAD that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the GHAD that the subconsultant has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the GHAD to terminate this Agreement for cause.

3.3.11.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder, and without limiting the indemnity provisions of the Agreement, the Consultant, in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement the following policies of insurance. If the existing policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

(A) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, or the exact equivalent, with limits of not less than $1,000,000 per occurrence and no less than $2,000,000 in the general aggregate. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions (1) limiting coverage for contractual liability; (2) excluding coverage for claims or suits by one insured against another (cross-liability); (3) products/completed operations liability; or (4) containing any other exclusion(s) contrary to the terms or purposes of this Agreement.

(B) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 00 01 covering "Any Auto" (Symbol 1), or the exact equivalent, covering bodily injury and property damage for all activities with limits of not less than $1,000,000 combined limit for each occurrence.

(C) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than $1,000,000 per accident for bodily injury and disease.

(D) Professional Liability (Errors & Omissions Professional Liability insurance or Errors & Omissions insurance appropriate to Consultant's profession with limits of not less than $1,000,000. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusions that may potentially affect the work to be performed (for example, any exclusions relating to lead, asbestos, pollution, testing, underground storage tanks, laboratory analysis, soil work, etc.). If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least five (5) years from termination or expiration of this Agreement.

3.3.11.3 Insurance Endorsements. Required insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the City to add the following provisions to the insurance policies:

(A) Commercial General Liability: (1) Additional Insured: The GHAD, its officials, officers, employees, agents, and volunteers shall be additional insureds with

regard to liability and defense of suits or claims arising out of the performance of the Agreement. Additional Insured Endorsements shall not (1) be restricted to "ongoing operations"; (2) exclude "contractual liability"; (3) restrict coverage to "sole" liability of Consultant; or (4) contain any other exclusions contrary to the terms or purposes of this Agreement. For all policies of Commercial General Liability insurance, Consultant shall provide endorsements in the form of ISO CG 20 10 10 01 and 20 37 10 01 (or endorsements providing the exact same coverage) to effectuate this requirement. (2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the GHAD except ten (10) days shall be allowed for non-payment of premium.

(B) Automobile Liability. (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the GHAD except ten (10) days shall be allowed for non-payment of premium.

(C) Professional Liability (Errors & Omissions): 1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the GHAD except ten (10) days shall be allowed for non-payment of premium. (2) Contractual Liability Exclusion Deleted: This insurance shall include contractual liability applicable to this Agreement. The policy must "pay on behalf of" the insured and include a provision establishing the insurer's duty to defend.

(D) Workers' Compensation: (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the GHAD except ten (10) days shall be allowed for non-payment of premium. (2) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the GHAD, its officials, officers, employees, agents, and volunteers.

3.3.11.4 Primary and Non-Contributing Insurance. All policies of Commercial General Liability and Automobile Liability insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the GHAD, its officials, officers, employees, agents, or volunteers shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.3.11.5 Waiver of Subrogation. All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the GHAD, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against GHAD, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

3.3.11.6 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the GHAD and shall protect the GHAD, its officials, officers, employees, agents, and volunteers in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.3.11.7 Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates on forms approved by the GHAD, together with all endorsements affecting each policy. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the GHAD for approval. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the GHAD. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the GHAD evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

3.3.11.8 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to transact business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

3.3.11.9 Enforcement of Agreement Provisions (non estoppel). Consultant acknowledges and agrees that actual or alleged failure on the part of the GHAD to inform Consultant of non-compliance with any requirement imposes no additional obligation on the GHAD nor does it waive any rights hereunder.

3.3.11.10 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance.

3.3.11.11 Additional Insurance Provisions

(A) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the GHAD, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(B) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, GHAD has the right but not the duty to obtain the insurance it deems necessary and any premium paid by GHAD will be promptly reimbursed by Consultant or GHAD will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, GHAD may cancel this Agreement.

(C) The GHAD may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(D) Neither the GHAD nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

(E) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the GHAD and shall not preclude the GHAD from taking such other actions available to the GHAD under other provisions of the Agreement or law.

(F) Consultant shall report to the GHAD, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

3.3.11.12 Insurance for Subconsultants. Consultant shall include all subconsultants engaged in any work for Consultant relating to this Agreement as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding the GHAD, its officials, officers, employees, agents, and volunteers as additional insureds to the subconsultant's policies. All policies of Commercial General Liability insurance provided by Consultant's subconsultants performing work relating to this Agreement shall be endorsed to name the GHAD, its officials, officers, employees, agents and volunteers as additional insureds using endorsement form ISO CG 20 38 04 13 or an endorsement providing equivalent coverage. Consultant shall not allow any subconsultant to commence work on any subcontract relating to this Agreement until it has received satisfactory evidence of subconsultant's compliance with all insurance requirements under this Agreement, to the extent applicable. The Consultant shall provide satisfactory evidence of compliance with this section upon request of the GHAD.

3.4 Labor Code Requirements.

3.4.1 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. GHAD shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify and hold the GHAD, its officials, officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.4.2 Registration/DIR Compliance. If the Services are being performed on a public works project of over $25,000 when the project is for construction, alteration, demolition, installation, or repair work, or a public works project of over $15,000 when the project is for maintenance work, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants.

3.4.3 Compliance Monitoring. This Project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR. Any stop orders issued by the DIR against Consultant or any subconsultant that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the GHAD. Consultant shall defend, indemnify and hold the GHAD, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the DIR against Consultant or any subconsultant.

3.4.4 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5 Termination of Agreement.

3.5.1.1 Grounds for Termination. GHAD may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those Services which have been adequately rendered to GHAD, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause. The rights and remedies of the GHAD provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this Agreement.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, GHAD may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, GHAD may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.6 Indemnification.

3.6.1 To the fullest extent permitted by law, Consultant shall defend (with counsel

of GHAD's choosing), indemnify and hold the GHAD, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, to the extent caused by the actual negligent acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses except such loss or damage caused by the sole negligence or willful misconduct of the GHAD. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement and shall not be restricted to insurance proceeds, if any, received by Consultant, the GHAD, its officials, officers, employees, agents, or volunteers.

3.6.2 If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

3.6.3 Consultant's aggregate liability hereunder shall be limited by GHAD to $1,000,000 regardless of the legal theory under which such liability is imposed.

3.7 General Provisions.

3.7.1 Accounting Records. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of GHAD during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.7.2 Independent Contractors and Subcontracting.

3.7.2.1 Use of Consultants. Consultant is aware of statutory and case law regarding classification of workers as independent contractors, including California Labor Code Section 2750.3 and Dynamex Operations West, Inc. v. Superior Court, 4 Cal. 5th 903 (2018). To ensure that Consultant is in compliance with the California Labor Code, Consultant shall only utilize its employees to provide the Services. Consultant may not provide the services through any independent contractor, subcontractor or subconsultant ("Subcontractor(s)") unless approved by the GHAD as set forth in Section 3.7.2.2 below. Consultant represents that all personnel who perform the Services on Consultant's behalf are Consultant's employees, and that Consultant complies with all applicable laws, rules and regulations governing its employees, including, but not limited to, the California Labor Code, Unemployment Insurance Code and all applicable Industrial Welfare Commission Wage Orders.

3.7.2.2 Prior Approval Required. Consultant shall not use any Subcontractor to provide the Services, or any portion of the work required by this Agreement, without prior written approval of GHAD. In the event that GHAD authorizes Consultant to use a Subcontractor, Consultant shall enter into a written agreement with the Subcontractor, which must include all provisions of the Agreement, including a restriction on the Subcontractor's use of further independent contractors, subcontractors or subconsultants without the GHAD's prior written consent.

3.7.3 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant:	ENGEO Incorporated 27742 Hancock Parkway Valencia, CA 91355 ATTN: Haley Ralston, Project Geologist
GHAD:	Santa Paula Geologic Hazard Abatement District 970 Ventura Street Santa Paula, CA 93060 ATTN: Clete Saunier, Santa Paula Director of Public Works.

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.7.4 Ownership of Materials and Confidentiality.

3.7.4.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for GHAD to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Upon full payment of all monies owed, all Documents & Data shall be and remain the property of GHAD, and shall not be used in whole or in substantial part by Consultant on other projects without the GHAD's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to GHAD reproducible copies of all Documents & Data, in a form and amount required by GHAD. GHAD reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by GHAD at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to GHAD upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to GHAD any such documents pending resolution of the dispute. In addition, Consultant shall retain copies of all Documents & Data generated and published by Consultant on file for a minimum of fifteen (15) years following completion of the Project, and shall

make copies available to GHAD upon the payment of actual reasonable duplication costs. Before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify GHAD and provide GHAD with the opportunity to obtain the documents.

• 3.7.4.2 Subconsultants. Consultant shall require all subconsultants to agree in writing that GHAD is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation in regard to Documents & Data which were prepared by design professionals other than Consultant or its subconsultants, or those provided to Consultant by the GHAD.

3.7.4.3 Right to Use. GHAD shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at GHAD's sole risk. If GHAD uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to the GHAD upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.7.4.4 Indemnification. Consultant shall defend, indemnify and hold the GHAD, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by GHAD of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.7.4.5 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of GHAD, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use GHAD's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of GHAD.

3.7.4.6 Confidential Information. The GHAD shall refrain from releasing Consultant's proprietary information ("Proprietary Information") unless the GHAD's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent jurisdiction,

in which case the GHAD shall notify Consultant of its intention to release Proprietary Information. Consultant shall have five (5) working days after receipt of the release notice to give GHAD written notice of Consultant's objection to the GHAD's release of Proprietary Information. Consultant shall indemnify, defend and hold harmless the GHAD, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. GHAD shall not release the Proprietary Information after receipt of an objection notice unless either: (1) Consultant fails to fully indemnify, defend (with GHAD's choice of legal counsel), and hold GHAD harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that GHAD release such information.

3.7.5 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.7.6 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. In the event of a conflict between this Agreement and its exhibits, the Agreement shall control.

3.7.7 Attorneys' Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorneys' fees and all costs of such action.

3.7.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Ventura County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Consultant must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the GHAD. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the GHAD.

3.7.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.7.10 GHAD's Right to Employ Other Consultants. GHAD reserves right to employ other consultants in connection with this Project.

3.7.11 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.7.12 Assignment or Transfer. Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the GHAD, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

Consultant shall not subcontract any portion of the Services required by this Agreement, except as expressly stated herein, without prior written approval of GHAD. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.7.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to GHAD include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.7.14 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.7.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.7.16 No Third-Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.7.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.7.18 Prohibited Interests. Consultant maintains that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Consultant represents that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic Interest with the GHAD's Filing Officer as required under state law in the performance of the Services. For breach or violation of this representation, GHAD shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of GHAD, during the term of his or her service with GHAD, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.7.19 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party represents that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.7.20 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.7.21 Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification obligations, shall survive any such expiration or termination.

[SIGNATURES ON NEXT PAGE]

SIGNATURE PAGE TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE SANTA PAULA GEOLOGIC HAZARD ABATEMENT DISTRICT AND ENGEO INCORPORATED

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on the day and year first above written.

SANTA PAULA GEOLOGIC HAZARD ABATEMENT DISTRICT

Approved By:

_____
Leslie Cornejo
Chair

Approved as to Form:

_____
Monica Castillo
GHAD Attorney

Attested By:

_____
Julie Latshaw, GHAD Clerk

ENGEO INCORPORATED

[If Corporation, TWO SIGNATURES, President OR Vice President AND Secretary OR Treasurer REQUIRED]

By: _____

Its: President

Printed Name: Uri Eliahu

By: _____

Its: Treasurer

Printed Name: Julia Moriarty

CERTIFIED CORPORATE RESOLUTION

Effective January 1, 2023, officers of ENGEO Incorporated Uri Eliahu, President, Paul Guerin, Chief Financial Officer and Brian Flaherty, Corporate Secretary hereby acknowledge that Theodore Bayham, Neel Neelakantan, Steve Harris, Mark Gilbert, Shawn Munger, and Jeffrey Fippin are authorized to co-execute client agreements and change orders on behalf of the Chairman of the Board of ENGEO Incorporated and Macy Tong, Robert Boeche, Julia Moriarty and Valerie Davis are authorized to co-execute client agreements and change orders as Assistant Treasurers of ENGEO Incorporated.

Dated: January 1, 2023

Uri Eliahu

Dated: January 1, 2023

Paul Guerin

Dated: January 1, 2023

Brian Flaherty

EXHIBIT "A"
SCOPE OF SERVICES & COMPENSATION

Proposal for FY 2024/2025 dated July 10, 2024
attached behind

Project No.
7290.002.024

July 10, 2024

Mr. Clete Saunier
Public Works Director
City of Santa Paula
P.O. Box 569
Santa Paula, CA 93061

Subject: Santa Paula GHAD
Santa Paula, California

PROPOSAL FOR GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD) MANAGER SERVICES FOR FY 2024/2025

References:
1. ENGEO. 2008. Santa Paula Geologic Hazard Abatement District (GHAD) Plan of Control, Santa Paula, California. March 10, 2008, Revised May 23, 2008. Project No. 7290.200.101.
2. ENGEO. 2023. Santa Paula Geologic Hazard Abatement District, Program Budget for Fiscal Year 2024/25. May 16, 2024. Project No. 7290.002.023.

Dear Mr. Saunier:

Thank you for the opportunity to present our proposal to continue serving as the Santa Paula Geologic Hazard Abatement District (GHAD) Manager and to provide scheduled monitoring services. We have enjoyed working with the City of Santa Paula on the formation, management, oversight, monitoring, maintenance of the GHAD and attendance at HOA and public meetings, and transfer of the Ridgeview at Vista Glen (Ridgeview) development improvements within the Santa Paula GHAD.

On April 4, 2016, the Santa Paula GHAD Board of Directors (GHAD Board) approved Resolution No. 6974 accepting responsibility for GHAD-maintained improvements. The GHAD has been providing monitoring and maintenance services within the Ridgeview development since the acceptance of the GHAD-maintained improvements. On June 5, 2024, the above-referenced budget was approved by the GHAD Board with the adoption of Resolution No. 7519. The fees listed below are based on the Santa Paula GHAD budget for FY 2024/25, which was approved by the GHAD Board.

We propose to perform site reconnaissance twice a year and a heavy-rainfall reconnaissance event twice a year, as recommended in the Plan of Control (Reference 1). The monitoring events are intended to satisfy the requirements of the Plan of Control adopted by the GHAD Board.

SCOPE OF SERVICES

Management

The GHAD Manager shall continue to be responsible for the day-to-day management of the Santa Paula GHAD in accordance with applicable state and federal statutes, the GHAD Plan of Control, and policies and guidelines adopted by the GHAD Board.

The GHAD may retain civil engineering and other consultants, contractors, and/or other vendors as may be required to evaluate, review, design, construct, or maintain GHAD facilities and improvements in accordance with the GHAD Plan of Control. We will secure these services on behalf of the GHAD in accordance with the GHAD Board's procedures related to the awarding of contracts for GHAD repair, maintenance, and improvement projects, and for professional and support services. In addition, the GHAD Manager will facilitate payments to other consultants and contractors providing services to the GHAD.

Monitoring

The Plan of Control states that scheduled monitoring events should occur twice a year, in April and October. Prior to each monitoring event, areas of particular concern documented in previous reports, if any, and in the Plan of Control, will be identified for incorporation into the site inspection schedule. Some of the items that will be addressed during the monitoring events will include:

- Concrete-lined surface ditches
- Subsurface drain outlets and horizontally drilled drain outlets
- Retaining walls, splash walls, and GEOBRUGG screen walls
- Inlets, outfalls, and trash racks
- Underground detention basin and CDS water-quality treatment unit
- Slopes and vegetative cover

Following our fieldwork, we will prepare a letter report summarizing the findings from our observations, which will contain photographs and a map of significant areas for documentation purposes. The letter report will be posted on the Santa Paula GHAD's website (www.santapaulaghad.org). Depending on the findings of our site observations, the report may include recommendations for additional monitoring, exploration, or mitigation of observed problem areas.

The Plan of Control also states that monitoring events should occur, as necessary, during heavy rainfall years where cumulative rainfall exceeds historical averages. Heavy rainfall monitoring events will include inspection of the same items listed above.

FEES

We propose to provide GHAD management, consultation, contracting, oversight, and monitoring services for FY 2024/25 for the Santa Paula GHAD for a fee of **$39,969**, as itemized below. The fees are based on the inflation-adjusted estimates provided in the approved 2008 Engineer's Report for the Santa Paula GHAD. The fee estimates allow for meetings and

consultation with the City of Santa Paula, The Ridgeview at Vista Glen Homeowners Association, and the GHAD Board during this fiscal year. In addition, contracting and oversight for GHAD maintenance, repair, and emergency response will occur during FY 2024/25.

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- Meetings and Consultation $2,350
- GHAD Contracting and Oversight Services $5,300
- Two Scheduled Monitoring Events $9,600
- Two Heavy Rainfall Monitoring Events, as needed $3,000
- GHAD Contractor Reimbursement $14,819

TOTAL $39,969

LIMITATIONS

ENGEO's liability for damage due to professional negligence, acts, errors, omissions, breach of contract and consequential damages will be limited by Client to an amount not to exceed an aggregate limit of one hundred thousand dollars or ENGEO's fee, whichever is greater, regardless of the legal theory under which such liability is imposed.

AUTHORIZATION

If the proposed scope of services and fee are acceptable, please provide a change order to our contract as our authorization to proceed.

We are pleased to be of continued service to you on this project. If you have any questions, please do not hesitate to contact us.

Sincerely,

ENGEO Incorporated

Haley J Ralston

Haley Ralston
Project Geologist

Uri Eliahu
President

hjr/ue/cb

Attachment: 2024 Preferred Client Fee Schedule

PREFERRED CLIENT FEE SCHEDULE
PROFESSIONAL SERVICES
Effective February 2024

President	$485.00 per hour
Principal	$390.00 per hour
Associate	$330.00 per hour
Subject Matter Expert	$425.00 per hour
Senior	$278.00 per hour
Project	$247.00 per hour
Staff	$216.00 per hour
Assistant	$173.00 per hour
Construction Services Manager II	$225.00 per hour*
Construction Services Manager I	$215.00 per hour*
Senior Field Representative II	$185.00 per hour*/**
Senior Field Representative I	$165.00 per hour*/**
Field Representative	$153.00 per hour*/**
Senior Laboratory Technician	$185.00 per hour
Laboratory Technician	$165.00 per hour
Senior GIS Developer	$200.00 per hour
GIS Developer	$190.00 per hour
Senior GIS Analyst	$195.00 per hour
GIS Analyst	$180.00 per hour
Senior CAD Specialist	$180.00 per hour
CAD Specialist	$170.00 per hour
Network Administrator	$260.00 per hour
Project Assistant	$150.00 per hour

* Two-hour minimum portal to portal and cancellations within 24 hours.

* OVERTIME RATES: Rates increased by factor of 1.5 for all hours worked in excess of eight (8) Monday through Friday, and the first eight (8) hours worked on Saturday. Rates increased by factor of 2.0 for all hours worked in excess of twelve (12) Monday through Friday, all hours worked in excess of eight (8) on Saturday and all hours worked on Sunday and holidays.

** For Prevailing Wage projects, increase the hourly rate by $21.

** Rates increased by factor of 1.25 for night shift hours (hours commencing after 4:00 p.m. or before 4:00 a.m.); rates increased by factor of 1.875 (an additional factor of 1.5) for all night shift hours in excess of eight (8); rates increased by factor 2.5 for all night shift hours worked in excess of twelve (12).

ADDITIONAL SERVICES OFFERED

In addition to our core services of geotechnical, hydrologic and environmental engineering, including construction-phase testing and observation, ENGEO provides clients with services for establishment and management of Geologic Hazard Abatement Districts (GHAD) and for Entitlement and Permitting Support (EPS). For more information about these services and associated pricing, please contact ENGEO at (925) 866-9000.

OTHER FEES

- Equipment and materials will be charged in addition to the above hourly rates.
- Outside Consultants, Subcontracted Services and Equipment Rental ..... Cost plus 25%
- Expert Witness, Deposition, Mediation, Arbitration, or Court Appearance (Minimum Charge) .....$2,800.00 half day, $4,800.00 full day

TERMS

Invoices will be submitted at completion of work or at approximately four week intervals and are due and payable upon receipt. Statements will be issued at monthly intervals. Charges not paid within 30 days of invoice date will accrue a late charge at a rate of 1.5 percent per month. In the event it becomes necessary to commence suit to collect amount due, Client agrees to pay attorney's fees and costs, as the court may deem reasonable until amount is paid. Fees will be applicable for one year from the effective date above; thereafter, fees will be adjusted annually. Our fees will be billed using an invoice format produced by a standardized accounting software package. A more customized itemization of charges and backup data will be provided upon Client's requests, but at additional fees. Final reports may be withheld until outstanding invoices are paid in full.

Many risks potentially affect ENGEO by virtue of entering into this agreement to perform services on behalf of client. A principal risk is the potential for human error by ENGEO. For client to obtain the benefit of a fee that includes a nominal allowance for dealing with our liability, client agree to limit ENGEO's liability to Client and all other parties for claims arising out of our performance of the services described in the agreement. The aggregate liability will not exceed $50,000 (or ENGEO's fee, whichever is greater, but not more than $1,000,000) for professional acts, errors, or omissions, including attorney's fees and costs that may be awarded to the prevailing party and client agrees to indemnify and hold harmless ENGEO from and against all liabilities in excess of the monetary limit established above.

EQUIPMENT AND MATERIALS CHARGES

DESCRIPTION	COST PER UNIT ($)	UNIT
Air Content Meter	7.00	hour
Bailers (Disposable)	10.00	each
Coatings Thickness Kit (eg. Fireproofing, Protective Paint)	30.00	hour
Concrete Crack Monitor	20.00	each
Coring Machine	30.00	hour
Double-Ring Infiltrometer	50.00	hour
Electronic Water Level Indicator	5.00	hour
Engineering Analysis Software	49.00	hour
Equipment Transport(er)	100.00	hour
Exploration Equipment (Electric Auger)	50.00	hour
Floor Flatness/Floor Level Equipment	40.00	hour
Generator	15.00	hour
GIS Website Portal Subscriptions	50.00	month
GPS Handheld Device	10.00	hour
GPR/GPS/Drone Survey Equipment	228.00	hour
Hand Auger and Soil Sampler	15.00	hour
Hydraulic Pull-Test Equipment	25.00	hour
Interface Probe	2.00	hour
Magnetic Particle Test Equipment	25.00	hour
Moisture Content Test Equipment	6.00	hour
Multi-Parameter Water Meter	15.00	hour
pH Meter/Turbidity Meter	10.00	hour
Photo Ionization Detector	20.00	hour
Reinforcing Bar Locator	100.00	hour
Sampling Tubes	10.00	each
Sand Cone Equipment and Material	5.00	hour
Schmidt Hammer	20.00	hour
Seismometer	50.00	hour
Skidmore Wilhelm Bolt Tension Calib.	40.00	hour
Slope Inclinometer/Settlement Indicator/VW Readout	50.00	hour
Torque Wrench	15.00	hour
Transfer Pump	3.00	hour
Ultrasonic Equipment	50.00	hour
Vapor Emission Test Kit	40.00	kit
Vector Conversion	60.00	conversion
Vehicle, nuclear gauge, equipment, wireless communication. *Add $5.00/hr. for RTK enabled autotesting equipment.	35.00*	hour
Vehicle, equipment, wireless communication	25.00	hour
Vibration Monitor	1800.00	month
Water Sampling Pumps	20.00	hour
Bridge Toll	actual	actual
Mileage	.98	mile
Parking	actual	actual
AutoCAD, Civil 3D, GIS, Drone Data Processing	35.00	hour
Photocopies Black & White	0.25	each
Photocopies Color 11 x 17	1.50	each
Photocopies Color 8½ x 11	1.00	each
Plot - Black & White	3.00	square foot
Plot - Color	4.00	square foot
Postage	actual	actual
Scan - Black & White	1.50	each
Scan - Color	3.75	each
Telephone	0.50	minute

EXHIBIT "A"
SCOPE OF SERVICES & COMPENSATION

Proposal for FY 2024/2025 dated July 10, 2024
attached behind

Project No.
7290.002.024

July 10, 2024

Mr. Clete Saunier
Public Works Director
City of Santa Paula
P.O. Box 569
Santa Paula, CA 93061

Subject: Santa Paula GHAD
Santa Paula, California

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Sincerely,

ENGEO Incorporated

Haley Ralston
Project Geologist

Uri Eliahu
President

hjr/ue/cb

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Project Assistant	$150.00 per hour

* Two-hour minimum portal to portal and cancellations within 24 hours.
* OVERTIME RATES: Rates increased by factor of 1.5 for all hours worked in excess of eight (8) Monday through Friday, and the first eight (8) hours worked on Saturday. Rates increased by factor of 2.0 for all hours worked in excess of twelve (12) Monday through Friday, all hours worked in excess of eight (8) on Saturday and all hours worked on Sunday and holidays.
** For Prevailing Wage projects, increase the hourly rate by $21.
** Rates increased by factor of 1.25 for night shift hours (hours commencing after 4:00 p.m. or before 4:00 a.m.); rates increased by factor of 1.875 (an additional factor of 1.5) for all night shift hours in excess of eight (8); rates increased by factor 2.5 for all night shift hours worked in excess of twelve (12).

ADDITIONAL SERVICES OFFERED

In addition to our core services of geotechnical, hydrologic and environmental engineering, including construction-phase testing and observation, ENGEO provides clients with services for establishment and management of Geologic Hazard Abatement Districts (GHAD) and for Entitlement and Permitting Support (EPS). For more information about these services and associated pricing, please contact ENGEO at (925) 866-9000.

OTHER FEES

- Equipment and materials will be charged in addition to the above hourly rates.
- Outside Consultants, Subcontracted Services and Equipment Rental ..... Cost plus 25%
- Expert Witness, Deposition, Mediation, Arbitration, or Court Appearance (Minimum Charge) .....$2,800.00 half day, $4,800.00 full day

TERMS

Invoices will be submitted at completion of work or at approximately four week intervals and are due and payable upon receipt. Statements will be issued at monthly intervals. Charges not paid within 30 days of invoice date will accrue a late charge at a rate of 1.5 percent per month. In the event it becomes necessary to commence suit to collect amount due, Client agrees to pay attorney's fees and costs, as the court may deem reasonable until amount is paid. Fees will be applicable for one year from the effective date above; thereafter, fees will be adjusted annually. Our fees will be billed using an invoice format produced by a standardized accounting software package. A more customized itemization of charges and backup data will be provided upon Client's requests, but at additional fees. Final reports may be withheld until outstanding invoices are paid in full.

Many risks potentially affect ENGEO by virtue of entering into this agreement to perform services on behalf of client. A principal risk is the potential for human error by ENGEO. For client to obtain the benefit of a fee that includes a nominal allowance for dealing with our liability, client agree to limit ENGEO's liability to Client and all other parties for claims arising out of our performance of the services described in the agreement. The aggregate liability will not exceed $50,000 (or ENGEO's fee, whichever is greater, but not more than $1,000,000) for professional acts, errors, or omissions, including attorney's fees and costs that may be awarded to the prevailing party and client agrees to indemnify and hold harmless ENGEO from and against all liabilities in excess of the monetary limit established above.

EQUIPMENT AND MATERIALS CHARGES

DESCRIPTION	COST PER UNIT ($)	UNIT
Air Content Meter	7.00	hour
Bailers (Disposable)	10.00	each
Coatings Thickness Kit (eg. Fireproofing, Protective Paint)	30.00	hour
Concrete Crack Monitor	20.00	each
Coring Machine	30.00	hour
Double-Ring Infiltrometer	50.00	hour
Electronic Water Level Indicator	5.00	hour
Engineering Analysis Software	49.00	hour
Equipment Transport(er)	100.00	hour
Exploration Equipment (Electric Auger)	50.00	hour
Floor Flatness/Floor Level Equipment	40.00	hour
Generator	15.00	hour
GIS Website Portal Subscriptions	50.00	month
GPS Handheld Device	10.00	hour
GPR/GPS/Drone Survey Equipment	228.00	hour
Hand Auger and Soil Sampler	15.00	hour
Hydraulic Pull-Test Equipment	25.00	hour
Interface Probe	2.00	hour
Magnetic Particle Test Equipment	25.00	hour
Moisture Content Test Equipment	6.00	hour
Multi-Parameter Water Meter	15.00	hour
pH Meter/Turbidity Meter	10.00	hour
Photo Ionization Detector	20.00	hour
Reinforcing Bar Locator	100.00	hour
Sampling Tubes	10.00	each
Sand Cone Equipment and Material	5.00	hour
Schmidt Hammer	20.00	hour
Seisometer	50.00	hour
Skidmore Wilhelm Bolt Tension Calib.	40.00	hour
Slope Inclinometer/Settlement Indicator/VW Readout	50.00	hour
Torque Wrench	15.00	hour
Transfer Pump	3.00	hour
Ultrasonic Equipment	50.00	hour
Vapor Emission Test Kit	40.00	kit
Vector Conversion	60.00	conversion
Vehicle, nuclear gauge, equipment, wireless communication. *Add $5.00/hr. for RTK enabled autotesting equipment.	35.00*	hour
Vehicle, equipment, wireless communication	25.00	hour
Vibration Monitor	1800.00	month
Water Sampling Pumps	20.00	hour
Bridge Toll	actual	actual
Mileage	.98	mile
Parking	actual	actual
AutoCAD, Civil 3D, GIS, Drone Data Processing	35.00	hour
Photocopies Black & White	0.25	each
Photocopies Color 11 x 17	1.50	each
Photocopies Color 8½ x 11	1.00	each
Plot - Black & White	3.00	square foot
Plot - Color	4.00	square foot
Postage	actual	actual
Scan - Black & White	1.50	each
Scan - Color	3.75	each
Telephone	0.50	minute

EXHIBIT "B"
ORIGINAL AGREEMENT

SANTA PAULA GEOLOGIC HAZARD ABATEMENT DISTRICT
PROFESSIONAL SERVICES AGREEMENT
WITH ENGEO INCORPORATED
(FY 2023/2024)

1. PARTIES AND DATE.

This Agreement is made and entered into this __6th_ day of Decmber, 2023, by and between the Santa Paula Geologic Hazard Abatement District, a political subdivision of the state organized under the laws of the State of California with its principal place of business at 970 Ventura Street, Santa Paula, CA 93060, County of Ventura, State of California ("GHAD") and ENGEO Incorporated, a California corporation, with its principal place of business at 29025 Ave Penn, Valencia, CA 91355 ("Consultant"). GHAD and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Superseded Agreement

The Parties enter into a Professional Service Agreement dated August 23, 2023 attached hereto as Exhibit "B" (Original Agreement"). The Original Agreement is hereby superseded and of no force and effect upon execution of this Agreement.

2.2 Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the GHAD on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing Geological Hazard Abatement District (GHAD) management and monitoring services to public clients, is licensed in the State of California, and is familiar with the plans of GHAD.

2.3 Project.

GHAD desires to engage Consultant to render such professional services for GHAD management and monitoring, Project No. 7290.002.023 ("Project"), as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the GHAD all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional GHAD management and monitoring consulting services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from July 1, 2023, to June 30,

2024, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Compensation.

3.2.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "A" attached hereto and incorporated herein by reference. The total compensation shall not exceed Thirty Nine Thousand Four Hundred Nineteen Dollars ($39,419.00) without written approval of the GHAD Board of Directors, as applicable. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.2.2 Payment of Compensation. Consultant shall submit to the GHAD a monthly invoice which indicates work completed and hours of Services rendered by Consultant. The invoice shall describe the amount of Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the invoice. GHAD shall, within 30 days of receiving such invoice, review the invoice and pay all non-disputed and approved charges. If the GHAD disputes any of Consultant's fees, the GHAD shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth therein. Payment shall not constitute acceptance of any Services completed by Consultant. The making of final payment shall not constitute a waiver of any claims by the GHAD for any reason whatsoever.

3.2.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by the GHAD.

3.2.4 Extra Work. At any time during the term of this Agreement, GHAD may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by GHAD 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 Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the GHAD.

3.3 Responsibilities of Consultant.

3.3.1 Independent Contractor; Control and Payment of Subordinates. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. GHAD retains Consultant on an independent contractor basis and not as an employee. Any personnel performing the Services on behalf of Consultant shall not be employees of GHAD and shall at all times be under Consultant's exclusive direction and control. Neither GHAD, or any of its officials, officers, directors, employees or agents shall have control over the conduct of Consultant or any of Consultants officers, employees or agents, except as set forth in this Agreement. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding,

unemployment insurance, disability insurance, and workers' compensation insurance.

3.3.2 Timely Performance. Consultant shall perform the Services in a prompt and timely manner. Consultant represents that it has the professional and technical personnel required to perform the Services expeditiously.

3.3.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of the GHAD.

3.3.4 Substitution of Key Personnel. Consultant has represented to GHAD that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of GHAD. In the event that GHAD and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows: Haley Ralston and Uri Eliahu.

3.3.5 GHAD's Representative. The GHAD hereby designates Clete Saunier, Director of Santa Paula Public Works or his/her designee, to act as its representative in all matters pertaining to the administration and performance of this Agreement ("GHAD's Representative"). GHAD's Representative shall have the power to act on behalf of the GHAD for review and approval of all products submitted by Consultant but not the authority to enlarge the Scope of Services or change the total compensation due to Consultant under this Agreement. The GHAD Manager shall be authorized to act on GHAD's behalf and to execute all necessary documents which enlarge the Scope of Services or change the Consultant's total compensation subject to the provisions contained in this Agreement. Consultant shall not accept direction or orders from any person other than the GHAD Manager, GHAD's Representative or his/her designee.

3.3.6 Consultant's Representative. Consultant hereby designates Robert Boeche, or Haley Ralston his/her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his/her skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.3.7 Coordination of Services. Consultant agrees to work closely with GHAD staff in the performance of Services and shall be available to GHAD's staff, consultants and other staff at all reasonable times.

3.3.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant represents that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant warrants that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant

shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its subconsultants who is determined by the GHAD to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the GHAD, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.3.9 Period of Performance.

3.3.9.1 Consultant shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Consultant shall also perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibit "A" attached hereto, or which may be separately agreed upon in writing by the GHAD and Consultant ("Performance Milestones"). Consultant agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such Performance Milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the GHAD will suffer damage.

3.3.9.2 Neither GHAD nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing Party. For purposes of this Agreement, such circumstances include a Force Majeure Event. A Force Majeure Event shall mean an event that materially affects a Party's performance and is one or more of the following: (1) Acts of God or other natural disasters; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the services); (4) strikes and other organized labor action occurring at the site and the effects thereof on the services, only to the extent such strikes and other organized labor action are beyond the control of Consultant and its subcontractors, and to the extent the effects thereof cannot be avoided by use of replacement workers; and (5) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety, and other actions of a public agency applicable to the services and Agreement.

3.3.9.3 Should a Force Majeure Event occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Force Majeure Events and/or delays, regardless of the Party responsible for the delay, shall not entitle Consultant to any additional compensation. Notwithstanding the foregoing in this section, the City may still terminate this Agreement in accordance with the termination provisions of this Agreement.

3.3.10 Laws and Regulations; Employee/Labor Certification.

3.3.10.1 Compliance with Laws. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations

of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the GHAD to terminate the Agreement for cause.

3.3.10.2 Employment Eligibility; Consultant. Consultant certifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time and shall require all subconsultants and sub-subconsultants to comply with the same. Consultant certifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement.

3.3.10.3 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.3.10.4 Air Quality. To the extent applicable, Consultant must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Consultant shall indemnify GHAD against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

3.3.10.5 Water Quality Management and Compliance. Consultant shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the performance of the Services including, without limitation, all applicable provisions of the GHAD's ordinances regulating water quality and storm water; the Federal Water Pollution Control Act (33 U.S.C. § 1251, *et seq.*); the California Porter-Cologne Water Quality Control Act (Water Code § 13000 *et seq.*); and any and all regulations, policies, or permits issued pursuant to any such authority. Consultant must additionally comply with the lawful requirements of the GHAD, and any other municipality, drainage district, or other local agency with jurisdiction over the location where the Services are to be conducted, regulating water quality and storm water discharges. GHAD may seek damages from Consultant for delay in completing the Services caused by Consultant's failure to comply with the laws, regulations and policies described in this Section, or any other relevant water quality law, regulation, or policy.

3.3.10.6 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

3.3.11 Insurance.

3.3.11.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the GHAD that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the GHAD that the subconsultant has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the GHAD to terminate this Agreement for cause.

3.3.11.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder, and without limiting the indemnity provisions of the Agreement, the Consultant, in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement the following policies of insurance. If the existing policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

(A) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, or the exact equivalent, with limits of not less than $1,000,000 per occurrence and no less than $2,000,000 in the general aggregate. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions (1) limiting coverage for contractual liability; (2) excluding coverage for claims or suits by one insured against another (cross-liability); (3) products/completed operations liability; or (4) containing any other exclusion(s) contrary to the terms or purposes of this Agreement.

(B) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 00 01 covering "Any Auto" (Symbol 1), or the exact equivalent, covering bodily injury and property damage for all activities with limits of not less than $1,000,000 combined limit for each occurrence.

(C) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than $1,000,000 per accident for bodily injury and disease.

(D) Professional Liability (Errors & Omissions Professional Liability insurance or Errors & Omissions insurance appropriate to Consultant's profession with limits of not less than $1,000,000. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusions that may potentially affect the work to be performed (for example, any exclusions relating to lead, asbestos, pollution, testing, underground storage tanks, laboratory analysis, soil work, etc.). If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least five (5) years from termination or expiration of this Agreement.

3.3.11.3 Insurance Endorsements. Required insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the City to add the following provisions to the insurance policies:

(A) Commercial General Liability: (1) Additional Insured: The GHAD, its officials, officers, employees, agents, and volunteers shall be additional insureds with

regard to liability and defense of suits or claims arising out of the performance of the Agreement. Additional Insured Endorsements shall not (1) be restricted to "ongoing operations"; (2) exclude "contractual liability"; (3) restrict coverage to "sole" liability of Consultant; or (4) contain any other exclusions contrary to the terms or purposes of this Agreement. For all policies of Commercial General Liability insurance, Consultant shall provide endorsements in the form of ISO CG 20 10 10 01 and 20 37 10 01 (or endorsements providing the exact same coverage) to effectuate this requirement. (2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the GHAD except ten (10) days shall be allowed for non-payment of premium.

(B) Automobile Liability. (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the GHAD except ten (10) days shall be allowed for non-payment of premium.

(C) Professional Liability (Errors & Omissions): 1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the GHAD except ten (10) days shall be allowed for non-payment of premium. (2) Contractual Liability Exclusion Deleted: This insurance shall include contractual liability applicable to this Agreement. The policy must "pay on behalf of" the insured and include a provision establishing the insurer's duty to defend.

(D) Workers' Compensation: (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the GHAD except ten (10) days shall be allowed for non-payment of premium. (2) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the GHAD, its officials, officers, employees, agents, and volunteers.

3.3.11.4 Primary and Non-Contributing Insurance. All policies of Commercial General Liability and Automobile Liability insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the GHAD, its officials, officers, employees, agents, or volunteers shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.3.11.5 Waiver of Subrogation. All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the GHAD, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against GHAD, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

3.3.11.6 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the GHAD and shall protect the GHAD, its officials, officers, employees, agents, and volunteers in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.3.11.7 Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates on forms approved by the GHAD, together with all endorsements affecting each policy. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the GHAD for approval. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the GHAD. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the GHAD evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

3.3.11.8 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to transact business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

3.3.11.9 Enforcement of Agreement Provisions (non estoppel). Consultant acknowledges and agrees that actual or alleged failure on the part of the GHAD to inform Consultant of non-compliance with any requirement imposes no additional obligation on the GHAD nor does it waive any rights hereunder.

3.3.11.10 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance.

3.3.11.11 Additional Insurance Provisions

(A) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the GHAD, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(B) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, GHAD has the right but not the duty to obtain the insurance it deems necessary and any premium paid by GHAD will be promptly reimbursed by Consultant or GHAD will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, GHAD may cancel this Agreement.

(C) The GHAD may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(D) Neither the GHAD nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

(E) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the GHAD and shall not preclude the GHAD from taking such other actions available to the GHAD under other provisions of the Agreement or law.

(F) Consultant shall report to the GHAD, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

3.3.11.12 Insurance for Subconsultants. Consultant shall include all subconsultants engaged in any work for Consultant relating to this Agreement as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding the GHAD, its officials, officers, employees, agents, and volunteers as additional insureds to the subconsultant's policies. All policies of Commercial General Liability insurance provided by Consultant's subconsultants performing work relating to this Agreement shall be endorsed to name the GHAD, its officials, officers, employees, agents and volunteers as additional insureds using endorsement form ISO CG 20 38 04 13 or an endorsement providing equivalent coverage. Consultant shall not allow any subconsultant to commence work on any subcontract relating to this Agreement until it has received satisfactory evidence of subconsultant's compliance with all insurance requirements under this Agreement, to the extent applicable. The Consultant shall provide satisfactory evidence of compliance with this section upon request of the GHAD.

3.4 Labor Code Requirements.

3.4.1 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. GHAD shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify and hold the GHAD, its officials, officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.4.2 Registration/DIR Compliance. If the Services are being performed on a public works project of over $25,000 when the project is for construction, alteration, demolition, installation, or repair work, or a public works project of over $15,000 when the project is for maintenance work, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants.

3.4.3 Compliance Monitoring. This Project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR. Any stop orders issued by the DIR against Consultant or any subconsultant that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the GHAD. Consultant shall defend, indemnify and hold the GHAD, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the DIR against Consultant or any subconsultant.

3.4.4 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5 Termination of Agreement.

3.5.1.1 Grounds for Termination. GHAD may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those Services which have been adequately rendered to GHAD, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause. The rights and remedies of the GHAD provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this Agreement.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, GHAD may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, GHAD may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.6 Indemnification.

3.6.1 To the fullest extent permitted by law, Consultant shall defend (with counsel

of GHAD's choosing), indemnify and hold the GHAD, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, to the extent caused by the actual negligent acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses except such loss or damage caused by the sole negligence or willful misconduct of the GHAD. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement and shall not be restricted to insurance proceeds, if any, received by Consultant, the GHAD, its officials, officers, employees, agents, or volunteers.

3.6.2 If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

3.6.3 Consultant's aggregate liability hereunder shall be limited by GHAD to $1,000,000 regardless of the legal theory under which such liability is imposed.

3.7 General Provisions.

3.7.1 Accounting Records. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of GHAD during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.7.2 Independent Contractors and Subcontracting.

3.7.2.1 Use of Consultants. Consultant is aware of statutory and case law regarding classification of workers as independent contractors, including California Labor Code Section 2750.3 and Dynamex Operations West, Inc. v. Superior Court, 4 Cal. 5th 903 (2018). To ensure that Consultant is in compliance with the California Labor Code, Consultant shall only utilize its employees to provide the Services. Consultant may not provide the services through any independent contractor, subcontractor or subconsultant ("Subcontractor(s)") unless approved by the GHAD as set forth in Section 3.7.2.2 below. Consultant represents that all personnel who perform the Services on Consultant's behalf are Consultant's employees, and that Consultant complies with all applicable laws, rules and regulations governing its employees, including, but not limited to, the California Labor Code, Unemployment Insurance Code and all applicable Industrial Welfare Commission Wage Orders.

3.7.2.2 Prior Approval Required. Consultant shall not use any Subcontractor to provide the Services, or any portion of the work required by this Agreement, without prior written approval of GHAD. In the event that GHAD authorizes Consultant to use a Subcontractor, Consultant shall enter into a written agreement with the Subcontractor, which must include all provisions of the Agreement, including a restriction on the Subcontractor's use of further independent contractors, subcontractors or subconsultants without the GHAD's prior written consent.

3.7.3 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant: ENGEO Incorporated
29025 Ave Penn
Valencia, CA 91355
ATTN: Haley Ralston, Project Geologist

GHAD: Santa Paula Geologic Hazard Abatement District
970 Ventura Street
Santa Paula, CA 93060
ATTN: Clete Saunier, Santa Paula Director of Public Works.

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.7.4 Ownership of Materials and Confidentiality.

3.7.4.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for GHAD to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Upon full payment of all monies owed, all Documents & Data shall be and remain the property of GHAD, and shall not be used in whole or in substantial part by Consultant on other projects without the GHAD's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to GHAD reproducible copies of all Documents & Data, in a form and amount required by GHAD. GHAD reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by GHAD at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to GHAD upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to GHAD any such documents pending resolution of the dispute. In addition, Consultant shall retain copies of all Documents & Data generated and published by Consultant on file for a minimum of fifteen (15) years following completion of the Project, and shall

make copies available to GHAD upon the payment of actual reasonable duplication costs. Before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify GHAD and provide GHAD with the opportunity to obtain the documents.

3.7.4.2 Subconsultants. Consultant shall require all subconsultants to agree in writing that GHAD is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation in regard to Documents & Data which were prepared by design professionals other than Consultant or its subconsultants, or those provided to Consultant by the GHAD.

3.7.4.3 Right to Use. GHAD shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at GHAD's sole risk. If GHAD uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to the GHAD upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.7.4.4 Indemnification. Consultant shall defend, indemnify and hold the GHAD, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by GHAD of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.7.4.5 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of GHAD, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use GHAD's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of GHAD.

3.7.4.6 Confidential Information. The GHAD shall refrain from releasing Consultant's proprietary information ("Proprietary Information") unless the GHAD's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent jurisdiction,

in which case the GHAD shall notify Consultant of its intention to release Proprietary Information. Consultant shall have five (5) working days after receipt of the release notice to give GHAD written notice of Consultant's objection to the GHAD's release of Proprietary Information. Consultant shall indemnify, defend and hold harmless the GHAD, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. GHAD shall not release the Proprietary Information after receipt of an objection notice unless either: (1) Consultant fails to fully indemnify, defend (with GHAD's choice of legal counsel), and hold GHAD harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that GHAD release such information.

3.7.5 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.7.6 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. In the event of a conflict between this Agreement and its exhibits, the Agreement shall control.

3.7.7 Attorneys' Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorneys' fees and all costs of such action.

3.7.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Ventura County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Consultant must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the GHAD. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the GHAD.

3.7.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.7.10 GHAD's Right to Employ Other Consultants. GHAD reserves right to employ other consultants in connection with this Project.

3.7.11 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.7.12 Assignment or Transfer. Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the GHAD, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

Consultant shall not subcontract any portion of the Services required by this Agreement, except as expressly stated herein, without prior written approval of GHAD. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.7.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to GHAD include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.7.14 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.7.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.7.16 No Third-Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.7.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.7.18 Prohibited Interests. Consultant maintains that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Consultant represents that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic Interest with the GHAD's Filing Officer as required under state law in the performance of the Services. For breach or violation of this representation, GHAD shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of GHAD, during the term of his or her service with GHAD, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.7.19 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party represents that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.7.20 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.7.21 Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification obligations, shall survive any such expiration or termination.

[SIGNATURES ON NEXT PAGE]

SIGNATURE PAGE TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE SANTA PAULA GEOLOGIC HAZARD ABATEMENT DISTRICT AND ENGEO INCORPORATED

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on the day and year first above written.

SANTA PAULA GEOLOGIC HAZARD ABATEMENT DISTRICT

Approved By:

_____
Andy Sobel
Chair

Approved as to Form:

_____
Monica Castillo
Interim GHAD Attorney

Attested By:

_____
Julie Latshaw, GHAD Clerk

ENGEO INCORPORATED

[If Corporation, TWO SIGNATURES, President OR Vice President AND Secretary OR Treasurer REQUIRED]

By: _____

Its: President

Printed Name: Uri Eliahu

By: _____

Its: Assistant Treasurer

Printed Name: Julia Moriarty

CERTIFIED CORPORATE RESOLUTION

Effective January 1, 2023, officers of ENGEO Incorporated Uri Eliahu, President, Paul Guerin, Chief Financial Officer and Brian Flaherty, Corporate Secretary hereby acknowledge that Theodore Bayham, Neel Neelakantan, Steve Harris, Mark Gilbert, Shawn Munger, and Jeffrey Fippin are authorized to co-execute client agreements and change orders on behalf of the Chairman of the Board of ENGEO Incorporated and Macy Tong, Robert Boeche, Julia Moriarty and Valerie Davis are authorized to co-execute client agreements and change orders as Assistant Treasurers of ENGEO Incorporated.

Dated: January 1, 2023

Uri Eliahu

Dated: January 1, 2023

Paul Guerin

Dated: January 1, 2023

Brian Flaherty

CITY OF SANTA PAULA
MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Clete Saunier, Public Works Director

Subject: ESTABLISHING UNDERGROUND UTILITY DISTRICT NO. 1 IN CONJUNCTION WITH SOUTHERN CALIFORNIA EDISON 'RULE 20A' PROGRAM

Date: September 4, 2024

Agenda Item: 10.A

RECOMMENDATION:

Staff recommends that the City Council:

1. Conduct a public hearing to consider adoption of Resolution No. 7532 establishing Underground Utility District No. 1 in conjunction with the Southern California Edison “Rule 20A” program.

Prepared by: Tatiana Arnaout, Deputy City Engineer, m6 Consulting, Inc.

BACKGROUND:

Southern California Edison (SCE) has looked to counties and cities it serves to prioritize the undergrounding of public utility facilities according to the rules of the State of California Public Utilities Commission (CPUC). The Tariff Rule 20A, Replacement of Overhead with Underground Electric Facilities (Rule 20A) Program funds the undergrounding of overhead power lines and was originally created to address the aesthetic impacts of the power lines. Local projects are completed through ratepayer-funded work credits that are allocated to communities based on the number of meters in that jurisdiction.

Pursuant to the Rule 20A Program, allocated work credits not committed to a qualifying project in a given year were permitted to be accrued until an agency had enough funding to complete a project. The City's current credit balance is approximately $1,109,596. In June 2021, the CPUC made significant changes to the Rule 20 program which stated cities will no longer be receiving work credits through the program after Dec. 31, 2022. In addition, cities were no longer able to sell or borrow Rule 20A work credits with other agencies.

ANALYSIS:

On August 2, 2023, the City was informed by SCE that, “Should the city/county be interested in pursuing a new Rule 20A project, the city/county would need to approve a Resolution forming an Underground Utility District (UUD) before April 30, 2025”. Due to the limited amount of undergrounding that could be done with the available Rule 20A credits, on April 17, 2024

City staff presented two options for establishment of an underground utility district. These were at Telegraph Road between Santa Paula Creek Bridge and Hallock Drive and 10th Street Crossings at 5 Locations. The outcome of the discussion lead to a strong preference for pursuing a UDD along 10th Street at five (5) locations as shown in Attachment 1.

10th Street (State Route 150) serves as both a gateway to the City's historic downtown district, as well as a transit corridor connecting State Route 126 to destinations north of the City, including Ojai and Thomas Aquinas College. The underground conversion of existing overhead conductors at the locations along 10th Street would significantly improve the aesthetics of the 10th Street corridor for City destination-oriented traffic and commuters alike. This project would face challenges in the undergrounding of these locations due to a combination of factors including limited right-of-way, non-contiguous SCE systems, and potential limitations in applying funding within non-City property (Caltrans). The underground conversion would require the installation of existing overhead conductors (SCE, telecom, cable) in underground duct systems that would traverse Caltrans right of way, which may create added challenges. Additionally, it is anticipated that in early 2025, Caltrans will be completing a comprehensive rehabilitation project including paving, sidewalk, curb and gutter and other improvements for these portions of 10th Street (SR150). Trenching for conduits and related work necessary for undergrounding of overhead conductors, as well as excavations for underground transformer vaults may be restricted due to moratorium considerations until approximately 2030.

The program requires that a formal UDD be created by Council resolution following an appropriately noticed public hearing in order to provide specificity as to location of the proposed underground conversion. This public hearing was properly noticed in the Santa Paula Times on August 21, 2024 (Attachment 3). The formation of the UUD is necessary to meet the Rule 20A requirements and it will not affect adjacent property owners as the created District is not a special assessment district. There will be no monetary assessments, taxes or other financial impacts to residents within the UUD.

After a preliminary evaluation of the area was completed by SCE, it was estimated that the five (5) locations along 10th Street may be undergrounded, provided the known challenges and constraints could be addressed during the design phase.

If approved, project design and construction would be overseen by SCE, with the City only being required to provide inspection services for related pavement repairs.

STRATEGIC PLAN:

The Project supports the currently adopted Strategic Plan in achieving the following goals:

Infrastructure, Transportation & Mobility

Goal: Maintain and develop the City's infrastructure to be safe, sustainable, innovative and cost-efficient.

FISCAL IMPACTS:

At this time, there are no fiscal impacts associated with this item, as the cost for the underground conversion of existing overhead conductors at the 5 locations along 10th Street is

unknown. Once the resolution establishing the UUD at these locations is approved, SCE will begin its process to develop a Rough Order of Magnitude (ROM) cost estimate for the project. Staff will return to Council once the ROM is provided by SCE to present its findings and request direction from Council before proceeding further.

OPTIONS:

The Council has the following available alternative options to staff's recommendations:

1. Provide a different project location for establishing an Underground Utility District.
2. Do not approve any Underground Utility District, which would result in the loss of the Rule 20A credits.

ATTACHMENTS:

Attachment 1 - UUD Rule 20A Location Map.pdf
Attachment 2 - Resolution 7532 - Rule 20A UDD
Attachment 3 - August 21, 2024 Public Notice.pdf

ATTACHMENT 1

UUD Rule 20A Location Map



N 10TH STREET | 1" = 200' | -

CITY OF SANTA PAULA
UUD
INCORPORATED APRIL 23 1902
CALIFORNIA

0 100 200 1 in =200 ft		RULE 20A - UUD LOCATIONS CITY OF SANTA PAULA SEPTEMBER 4, 2024	SHEET 1 OF 1 EXHIBIT A

RESOLUTION NO. 7532

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA PAULA ESTABLISHING UNDERGROUND UTILITY DISTRICT NO. 1 IN CONJUNCTION WITH THE SOUTHERN CALIFORNIA EDISON "RULE 20A" PROGRAM

The City Council of the City of Santa Paula does resolve as follows:

SECTION 1: The proposed project relates to the replacement and reconstruction of existing utility systems described in "Class 2" of the categorical exemptions under the State CEQA Guidelines and is therefore exempt from the requirement for preparation of environmental documents.

SECTION 2: The public necessity, health, safety and welfare require the removal of poles, overhead wires and associated structures, and the underground installation of wires and facilities for supplying electric, communication, or similar or associated services within the area hereafter designated, and the underground utility district herein created is in the general public interest. The undergrounding of public utilities serves the public interest for the following reasons:

A. The undergrounding to be accomplished adjoins and passes through a traveled public right-of-way area which also will be an area of scenic interest to the general public;

B. The removal of the Overhead Facilities and installation of the Underground Facilities will avoid or eliminate an unusually heavy concentration of overhead transmission facilities; and

C. The affected streets are extensively used by the general public and carry a substantial volume of pedestrian and vehicular traffic.

SECTION 3: Affected property owners must be ready to receive underground utility service by 12/31/2028, which date may be later depending on factors beyond the City's control.

SECTION 4: The City will use Rule 20A work credits to cover the installation of service laterals and any panel conversion work on affected private properties.

SECTION 5: Pursuant to Section 53.04 of the Santa Paula Municipal Code, the hereinafter described area is hereby declared an Underground Utility District, and is designated as Underground Utility District No. 1 of the City of Santa Paula, California.

Attached hereto, marked Exhibit “A” and incorporated herein as part of this Resolution, is a map delineating the boundaries of said Underground Utility District No. 1.

SECTION 6: The City Council herby orders that all poles, overhead wires and associated overhead utility structures shall be removed and underground installations made in said Underground Utility District No. 1.

SECTION 7: In accordance with the provisions of Section 53.07 of the City’s Code, the City Clerk shall, within ten (10) days after the adoption of this resolution, mail a copy hereof to affected property owners as such are shown on the last equalized roll and to the affected utilities.

PASSED AND ADOPTED this _____ day of September, 2024.

_____
Leslie Cornejo, Mayor

ATTEST:

_____
Julie Latshaw, City Clerk

APPROVED AS TO FORM:

_____
Monica Castillo, City Attorney

EXHIBIT A

District Boundary Map

[Attached behind]



N 10TH STREET | 1" = 200' | -

CITY OF SANTA PAULA
UUD
INCORPORATED APRIL 23 1902
CALIFORNIA

0 100 200
1 in =200 ft

RULE 20A - UUD LOCATIONS
CITY OF SANTA PAULA
SEPTEMBER 4, 2024

SHEET 1 OF 1

EXHIBIT A

ATTACHMENT 3

Santa Paula Times August 21, 2024 Public Notice

CITY OF SANTA PAULA
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held, as provided by law, before the Santa Paula City Council on **WEDNESDAY, SEPTEMBER 4, 2024 AT 6:30 P.M.**, or as soon thereafter as possible, in the Santa Paula City Council Chambers at 970 Ventura Street, regarding the proposed project as stated below:

SUBJECT:
Rule 20A Utility Undergrounding District. The City Council will consider adopting a resolution to establish a utility undergrounding district along 10th Street to pursue a Rule 20A utility undergrounding project at that location.

Where You Come In:
At any time, not later than the aforesaid hour set for the hearing, any person or organization may file a written statement to the City Clerk of the City or email CityClerk@spcity.org, of his or her opinions with respect to the Rule 20A Undergrounding District. Any person or organization desiring to be heard will be given an opportunity to do so. If you have questions regarding this hearing, the Rule 20A Undergrounding District, or any other matter, you may call the City offices at (805) 933-4201.

For More Information:
If you have any questions or would like more information regarding the item(s) described in this notice, please contact: the Public Works Department by telephone at (805) 933-4212 or send an e-mail to engineer@spcity.org

The City Council may also discuss other hearings or items of business at this meeting. The complete meeting agenda and copy of the staff report on the above item will be posted on the City website at www.spcity.org. Live broadcasts of City Council meetings may be seen on the local cable television Channel 10, or view the live feed on the city website at www.spcity.org. City Council meetings are rebroadcast throughout the week.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing(s) described in this notice, or in written correspondence delivered to the City at, or prior to, the Public Hearing (Govt. Code Sec 65009).

CLETE SAUNIER
PUBLIC WORKS DIRECTOR
TO BE PUBLISHED IN THE *SANTA PAULA TIMES* ON WEDNESDAY, AUGUST 21, 2024

CITY OF SANTA PAULA
MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Jonathan Royas, Deputy City Manager

Subject: 2023-2025 CITY COUNCIL STRATEGIC PLAN PROGRESS REPORT

Date: September 4, 2024

Agenda Item: 11.A

RECOMMENDATION:

Staff recommends City Council:

1. Receive a presentation and file a progress report on the Council's Strategic Plan; and
2. Direct staff to take additional or related action that may be desirable.

Presented by: Jonathan Royas, Deputy City Manager

BACKGROUND:

On June 21, 2023, City Council adopted a new 2-Year Strategic Plan after a thorough and extensive process which included feedback and input from City Council, executive staff and the public via several public workshops. The purpose of this endeavor was to identify community challenges and develop a timeline to solve these opportunities as defined by the Council and City staff.

The 2023-2025 Strategic Plan (the "Plan") contains the following seven categories with goals:

A. **Arts, Culture, and Entertainment**

Goal: Become a regional leader of the arts, culture, and entertainment that accurately represents our history and core values.

B. **Economic Development**

Goal: Enhance the economic vitality of the community through measures targeted towards development and business retention and expansion and attraction, resulting in diverse housing options, increased revenue generation, job creation, and a business-friendly community.

C. **Infrastructure, Transportation & Mobility**

Goal: Maintain and develop the City's infrastructure to be safe, sustainable, innovative,

and cost-efficient.

D. **Connected and Healthy Community**

Goal: Educate and engage residents and businesses about programs, initiatives and foster regional partnerships that create a safe and healthy community to live, work and thrive.

E. **Public Safety & Emergency Preparedness**

Goal: Create an environment within the City in which our residents feel safe and which promotes the City as a location of choice for living, working, visiting and recreating.

F. **Community Vitality**

Goal: Provide the residents of Santa Paula with sustainable resources and programs to make this a great place to live and grow.

G. **Operational Excellence**

Goal: Provide excellent service to the community in a cost-effective manner with an engaged workforce with a focus on continuous improvement and outstanding customer service.

Within these seven categories are 52 objectives, some of which overlap between different strategic plan categories.

ANALYSIS:

The 2023-2025 City Council Strategic Plan Progress Report (Exhibit A - City Council Strategic Plan Progress Report) identifies progress made in the past year towards the seven overarching categories and the 52 objectives contained within.

Milestone Metrics

Each objective within the Plan contains defined metrics which are used to gauge staffs efforts towards completion of the objectives. As notated in Exhibit A, the "Milestone" column assists Council and the public in tracking the progress of each objective. A key is provided below and also displayed on the top of Exhibit A.

0 - No progress

1 - Discussed but no action taken (staff not actively working on)

2 - Planned/Scheduled - Quarter or Year of Expected Completion

3 - On Track - Quarter or Year of Expected Completion

4 - Near Completion - Quarter or Year of Expected Completion

5 - Completed

Despite unprecedented events last year, staffing changes and new initiatives which have required additional staff time this year, staff has completed 13 objectives and made progress on 33 objectives, with notable success in the following areas:

Completed Strategic Plan Objectives

- B. Economic Development
    - Objective #1 - Revenue Opportunities - Actively pursue revenue opportunities to increase the City's revenue base.
        - Complete - On June 28, 2024, Council unanimously moved forward with placing a 1 cent sales tax measure on the November 2024 Ballot. If passed by the residents, a significant portion of the revenue will be utilized for improving and maintaining City streets.
    - Objective #2 - Business Communications - Business Communications - Create a positive business environment by increasing communications and partnerships with new and existing businesses.
        - Complete and ongoing - 1. 2024 - four Business Roundtables with 2 remaining; 2. 30+ per event; 4. Workshops with WEV, EDC, & SCORE and an ADA workshop. 5. Fellow has explored two Digital Email Marketing & Automation Software's, Mail Chip and Constant Contact. Additionally explored 5 other software's. CRM software actively in use. Started a new program, Business Connect, which is focused on engaging our current business owners and meeting in person with them to access opportunities for growth, expansion and policy improvements.
- C. Infrastructure, Transportation & Mobility
    - Objective #5 - P&R Funding - Explore revenue options for parks, greenways and public spaces including funding for park and recreation facilities and programs. (General Plan PSU 6.7)
        - Complete for the time being - In 2023, staff conducted a study session with Council on exploring revenue options which included Landscape and Lighting Districts and Park Maintenance Districts amongst other options. Based on feedback from Council, staff moved forward in exploring higher priority revenue options.
- D. Connected & Healthy Community
    - Objective #1 - Community Education - Provide community education about City projects, processes, & permits.
        - Complete & Ongoing; Staff will continue to work with the Chamber of Commerce to produce the "Did You Know" community education video series. Additionally, staff will continue to engage residents through various community programs and events (Future Leaders Academy, Business Roundtables, PBID, ADA Workshop, CERT, etc.) and forums to provide education about projects and processes. Upcoming community engagement events include youth facility workshops, Senior Master Plan workshops, Bike Trail Extension workshops, Fagan Barranca Park workshops.

- Objective #2 - CRM Database - Explore options for CRM database to enhance communications with residents.
  - Complete & Ongoing. #1 - Research options were concluded. #2 - Council approved an ARPA budget allocation to purchase Constant Contact CRM software and the system is now in use with several distribution lists established. Official rollout will occur during website refresh launch.

- Objective #5 - Citywide Communications - Analyze the effectiveness of the City's current communication efforts and provide suggestions for improvements.
  - Complete & Ongoing - #1 - Established an ad hoc communications committee which has provided input from residents on how to improve communications practices. Feedback included use of a CRM system which has been established. #2 and #3 - Staff continues to work with consultant to obtain monthly and quarterly feedback on communications related issues. #4 - Technology applications have been explored but budget and staff resource allocation need to be accessed prior to moving forward.

- E. Public Safety & Emergency Preparedness

- Objective #6 - SPPD Wellness - Expand wellness options for employees such as peer support counseling services, and mindfulness and resiliency training.
  - A 3-person peer support team was established in 2023 and has been deployed on a few occasions. Peer Support Team has attended several trainings in peer support, mindfulness, and resiliency. Therapy Dogs have visited the PD on two occasions and a monthly wellness newsletter for all PD employees is provided. The City is also utilizing a public safety wellness grant of $25,000 which is being used for enhanced training and counseling support.

- Objective #8 - Emergency Communications - Explore technology and increase subscribership with emergency communications to enhance disaster-preparedness efforts.
  - Complete & Ongoing - 1. Staff continues to see increases in VC Alert and Nixle Subscribers. 2. Research concluded that the VCAlert system is the most effective means of communicating with residents during an event. In addition, all social media platforms are utilized to communicate incidents and increase subscribership to city/government trusted technology platforms.

- F. Community Vitality

- Objective #1 - Volunteerism - Expand, support and connect volunteers, or those with specialized skills, with local opportunities to make a difference in Santa Paula.
  - Complete & Ongoing - Staff has continued to host SP Beautiful Days with one in April 2024 and an upcoming one on October 12th, 2024. Hosted 2 volunteer appreciation events: (Dec 2023) Senior Center Volunteers as they do majority of year-round volunteer work and a volunteer appreciation dinner in May 2024 of all volunteers in the city, including sports, senior center and more. Software is up and running with over 200 volunteers in the system. Staff continually works to recruit new volunteers and is working on tracking

volunteer hours.

- Objective #2 - Internships - Expand and enhance a Citywide Internship and Apprentice Program.
  - Complete & Ongoing - First YARA cohort is complete; Graduation is Sept 21, 2024; 2nd cohort will begin in Feb 2025. Additionally, staff is working with Goodwill Industries to possibly expand internship opportunities.

- Objective #6 - Wi-Fi - Improve Wi-Fi signal at the Community Center & Cultural Arts Building.
  - Complete. Tests and feedback were conducted in 2023 and 2024 in both the Community Center and Cultural Arts Building after enhancements and upgrades were made and there have been no reported issues with the Wi-Fi.

- G. Operational Excellence

  - Objective # 7 - Wellness Options - Expand Employee Wellness options.
    - Complete & Ongoing - Wellness options are in place, such as the new Wellness & Fitness Benefit, and employee health events and trainings through the Lunch & Learn series continue to expand employee wellness options. Staff will continue to work with Human Resources to identify additional options.

  - Objective #8 - Housing/Homeless Position - Explore opportunities to establish a Housing/Homeless Services position who will pursue partnerships and options to understand, address, and meet the needs of the unhoused, including behavioral support.
    - Complete & Ongoing - #2, #3 and #5 complete. #1 - Strategies to address the variety of homeless and housing needs are being explored in collaboration with Spirit of Santa Paula, Ventura County and several non-profit housing and service providers. #4 - Staff is seeking to utilize an expanded Affordable Housing Task force to serve as a Homeless and Housing task force. #5 Purchase of property for transitional housing complete.

In addition to these completed objectives, staff has made notable progress on the following items as identified in Exhibit A:

- A. Arts, Culture and Entertainment

  - Objective #1 - Public Arts/Murals - Support public art and the mural program and pursue methods to increase funding. (General Plan EDD 4.c)
  - Objective #2 - Cultural Arts/Tourism - Establish and support a Cultural Arts and a Tourism Council.
  - Objective #3 - QR Codes - Pursue the integration of technology with QR codes for historical buildings/murals.

- B. Economic Development

  - Objective #8 - Annexation Opportunities - Review of city boundaries for annexation

opportunities.

- C. Infrastructure, Transportation & Mobility

    - Objective #7 - Bike Master Plan - Create a Class I and II Bike Trail Master Plan and work towards expansion of our existing trails.

- E. Public Safety

    - Objective #2 - Neighborhood Safety - Strengthen neighborhood safety engagement initiatives around emergency preparedness.
    - Objective #4 - SPPD Facility Upgrades - Pursue funding to complete all Police facility upgrades.
    - Objective #5 - SPPD Community Engagement - Develop methods and programs to connect our police with the community, local nonprofits and businesses.
    - Objective #7 - Emergency Response - Create an Emergency Preparedness, Response and Recovery Plan. (General Plan)

- F. Community Vitality

    - Objective #7 - Senior Master Plan - Develop a Senior Master Plan.
    - Objective #10 - Union Oil Building - Pursue programing and public use options for the Union Oil Building.

- G. Operational Excellence

    - Objective #4 - Personnel Policies and Procedures - Update the City Personnel Policies and Procedures to comply with statutes.
    - Objective #5 - Records & Retention Policy - Update records-keeping and retention policy.

STRATEGIC PLAN:

Progress in all items contained in this report will continue to advance City Council's objectives.

FISCAL IMPACTS:

There are no direct costs associated with Strategic categories or goals. Specific objectives contained within the plan may have direct fiscal impacts, which have either been incorporated into the FY 2023-25 budget, may require additional funding sources or will need to be approved by Council once a budget has been developed and a project is ready for Council’s authorization.

PERSONNEL IMPACTS:

It is important to understand that the vast majority of time spent by City staff is dedicated to mandated, routine and/or responsive tasks. Especially in Santa Paula where staff ratios are extremely burdened and there is limited ability to pursue new initiatives, the capacity to complete the objectives contained in the Strategic Goals may be constrained.

OPTIONS:

1. Amend the plan and/or provide further direction to staff.

2. Rescind the plan.

ATTACHMENTS:

Exhibit A - Council's Strategic Plan Progress Report.pdf

EXHIBIT A - CITY COUNCIL STRATEGIC PLAN PROGESS REPORT

Strategic Plan 2023-2025

Milestone Metrics Key		
	0 - No Progress	3 - On Track - Date or Quarter
	1 - Discussed but no action taken (staff not actively working on)	4 - Near Completion - Date
	2 - Planned/Scheduled - Quarter & Year	5 - Completed

Catego	#	Dept. 1	Dept. 2	Dept. 3	Objective	Metrics	Milestone	Update as of August 24, 2024
A. Arts, Culture and Entertainment								
A	1	CED	Admin	P&R	**Public Arts/Murals** - Support public art and the mural program and pursue methods to increase funding. (General Plan EDD 4.c)	1. Help facilitate production of at least one new mural per calendar year 2. Explore policies or programs which would provide a "percent for the arts". 3. Number of grant applications vs. the number of grants won for Arts, Culture, and Entertainment.	3 ~ 2025	1. Completed murals at Harding Park and the Community Center; The fire memorial mural is still in the works. 3. SP Arte & Cultura Collective won $1500 grant award for Bursting with Color Downtown Art Exhibit and was not successful in obtaining funding from the County and VCCF for a second grant opportunity.
A	2	CED	Admin		**Cultural Arts/Tourism** - Establish and support a Cultural Arts and a Tourism Council.	1. Establish an Arts Council. 2. Promotion of arts/history/culture. 3. Number of artists and projects per year. 4. Number of digital and print materials distributed. 5. Number of events. 6. Establish monthly calendar of events. 7. Support or obtain funding for each entity.	3 ~ 2025	#1 - The Santa Paula Arte & Cultura Collective is an official 501c3. The group is establishing communications protocols and a monthly meeting schedule. #2 Group will continue to work with City and Chamber on promotion of current arts/history and culture in the community. #5 Held several meetings in 2023-2024 to get the 501c3 formation off the ground. 6. Staff continues to add all local free events to the City website calendar which has been upgraded to include all events.
A	3	CED	Admin		**QR Codes** - Pursue the integration of technology with QR codes for historical buildings/murals.	1. Number of plaques installed and number of QR codes created for existing points of interest. 2. Creation of a dedicated website for historical buildings/murals.	4 ~ 2025	#2 - Website is up and active and will be revealed during Council Strategic Plan update. #1 - Now that website has been established, QR codes and a plaque to be placed on each mural are being developed by the Chamber.
A	4	CED			***Historic Resources** - Adopt and implement standards and guidelines for new development, alterations to existing structures, and preservation of historic resources within historic districts. (GP ECR 4.c)	1. Update the municipal code to include standards for historic preservation.	3 ~ 2024	Updates will occur in concert with the comprehensive code update. Including potential expansion of Mills Act ordinance - 4th quarter 2024
B. Economic Development								
B	1	CED	Finance	Admin	**Revenue Opportunities** - Actively pursue revenue opportunities to increase the City's revenue base.	1. Bring a list of options to Council for review. 2. Move forward on any initiatives Council supports.	5	Complete - On June 28, 2024, Council unanimously moved forward with placing a 1 cent sales tax measure on the November 2024 Ballot. If passed by the residents, a significant portion of the revenue will be utilized for improving and maintaining City streets.

B	2	CED	Admin		**Business Communications** - Create a positive business environment by increasing communications and partnerships with new and existing businesses.	1. Number of business roundtables per year. 2. Number of attendees on average per event. 3. Number of email blasts, newsletters, etc. 4. Development of targeted business education programs through EDC, WEV, and SCORE. 5. Explore CRM software system.	5	Complete and ongoing - 1. 2024 - four Business Roundtables with 2 remaining; 2. 30+ per event; 4. Workshops with WEV, EDC, & SCORE and an ADA workshop. 5. Fellow has explored two Digital Email Marketing & Automation Software's, Mail Chip and Constant Contact. Additionally explored 5 other software's. CRM software actively in use. Started a new program, Business Connect, which is focused on engaging our current business owners and meeting in person with them to access opportunities for growth, expansion and policy improvements.
B	3	CED	PW	P&R	***Downtown Beautification** - Develop guidelines which address architecture, landscaping, streets, and hardscape elements within the Downtown and historic districts. (GP ECR 4.c)	1. Develop a schedule for completion of suggested improvements, based on priority, and present periodic updates to the Property Business Improvement District (PBID) and City Council. 2. Schedule, milestones, projects (number of facades improved, number of wayfinding signs installed, etc.)	3 ~ 2024	Installation of new downtown trash receptacles to be finished before the end of 2024. Downtown tree up lighting project complete; working on technical issue with manufacturer. Wayfinding project still in process. Façade improvement program RFP for contractors and funding discussion to occur before the end of the year.
B	4	CED	Admin		**Marketing** - Partner with the HVTB, PBID, Chamber of Commerce, and local transportation providers (rail and airport) to work collectively to advertise and market Santa Paula to increase tourism.	1. Explore utilizing data and software analytics along with business-related data to capture business-related analytics. 2. Measured by Transient Occupancy Tax (TOT) increase.	3 ~ 2024	Working with Community and Economic Development office to develop a presentation of data on employment and retail ingress/egress in late 2024.
B	5	CED	PW		**Navigational Signage** - Attract "pass-through" traffic by improving and implementing new wayfinding or "gateway" signage throughout the City and SR126 to promote business and tourist opportunities.	1. By Spring 2024 have a comprehensive wayfinding program defined with critical locations installed. 2. Expand process as much as budget allows.	3 ~ 2024	Staff continues to work with Hunt designs on finalizing signage designs and key locations including downtown and city entry monuments. Next update to City Council 4th quarter 2024; Of note is upcoming planning and design contract award for designing the Main/Telegraph/Harvard Roundabout CIP Project. This will be a primary City gateway feature.
B	6	CED			***Business Attraction** - Prepare an economic base study to identify business sectors with greatest potential for expansion in Santa Paula and implement a business retention, marketing and recruitment program to attract those businesses. (GP pg.32 EDD1.b)	1. Contract out data analytics capture in 2023 to determine opportunities for retention and attraction based on data related to leakage and the city's employment base. 2. Explore rural retail opportunities for growth. 3. Identify retail deficits and conduct outreach to representatives of potential operators. 4. Assemble metrics to better demonstrate the city's marketability. 5. Utilize data analytics capture software for informed decision making.	3 ~ 2024	Working with City Manger's office to develop a presentation of data on employment and retail ingress/egress in late 2024. Started a new program, Business Connect, which is focused on engaging our current business owners and meeting in person with them to access opportunities for growth, expansion and policy improvements.
B	7	CED			**Retail Vacancy Standards** - Explore options for addressing empty storefronts.	1. Develop strategies related to property owner outreach and education. 2. Potentially modify muni-code to require active uses on main floor CBD properties. 3. Number of reduced empty storefronts Year over Year.	3 ~ 2025	Discussions with Economic Development Standing Committee has resulted in more clarity on potential options for addressing downtown building vacancies including: citations, property owner collaborations, and policies to hold property owners accountable for long term vacancies and maintenance /code violations.

B	8	CED			**Annexation Opportunities** - Review of city boundaries for annexation opportunities.	1. Collaboration with property owners, county and LAFCo to identify viable sites and determine successful implementation strategies.	4 ~ 2024	Plans to take Santa Paula West Business park to LAFCo in Sept-Oct 2024. Staff continues to actively look for areas of annexation that can clean up awkward city boundaries.
C. Infrastructure, Transportation & Mobility								
C	1	PW			**Streets** – Work to maximize funding going to streets	1. Staff will provide 5-Year Pavement Management Plan updates to Council on an annual basis. 2. Review of Pavement Condition Index (PCI) changes year-over-year.	3 ~ 2025	#1 and #2 - Staff continues to provide updates to Council on Pavement Management Plan updates along with PCI changes. Findings from streets February workshop were incorporated into a 1 cent sales tax measure currently placed on the November 2024 Ballot. If passed by the residents, a significant portion of the revenue is expected to be utilized for improving and maintaining City streets.
C	2	P&R	PW	CED	**City Facilities Master Plans** - Pursue long term options and Master Plans for the Corporate Yard/Water and City Hall Campus improvements.	1. Hire a consultant to work on creating a Corporate Yard/Water and City Hall Campus Master Plan. 2. Have draft report / plan presented to an ad hoc committee or Council.	1	No change / no budget identified at this time. No additional update. Funding to be available from recent development agreement with LLCB.
C	3	PW	P&R		**Green Initiatives** - Explore funding opportunities and partnerships to implement Energy Efficiency projects, solar, and electric vehicle (EV) technologies.	1. Complete lighting project (Phase 1). 2. Apply for grant funding opportunities. 3. Explore and present findings related to solar options to Council. 4. Explore and present findings related to EV options to Council.	2 ~ 2025	Lighting project will begin in the next few months; New Public Works staff member hired on July 29, 2024 that will enable research and coordination of grant funding opportunities for this initiative.
C	4	CED	PW		***Downtown Lighting/Safety** - Improve and maintain lighting and safety measures in alleys and parking lots within the downtown keeping in mind historical aesthetics. (GP EDD 4.c.)	1. Number of lights identified, procured, and installed.	1	No updates or budget to move forward with this objective at this time.
C	5	P&R			***P&R Funding** - Explore revenue options for parks, greenways and public spaces including funding for park and recreation facilities and programs. (GP PSU 6.7)	1. Hire a consultant to explore feasibility and process of creating a park district and explore potential revenue options.	5	Complete for the time being - In 2023, staff conducted a study session with Council on exploring revenue options which included Landscape and Lighting Districts and Park Maintenance Districts amongst other options. Based on feedback from Council, staff moved forward in exploring higher priority revenue options.
C	6	P&R	CED		**Fire Memorial Building** - Explore feasibility of future interior use for the historic Fire Memorial Building.	1. Obtain cost estimates for needed building improvements and costs of use alternatives.	1	No updates at this time.
C	7	PW	CED		**Bike Master Plan** - Create a Class I and II Bike Trail Master Plan and work towards expansion of our existing trails.	1. Progress on master plan (milestones). 2. Total number of miles of Class I/II bike lanes created.	3 ~ 2025	The Community Bike Trail Connectivity Project Consultant MNS, has been secured to begin the major bike trail designs. Staff is pursuing a separate RFP for the citywide Bike Master Plan which will be bid out separately and will require additional funding most likely during Q4 2024.
D. Connected & Healthy Community								

D	1	CED	Admin		**Community Education** - Provide community education about City projects, processes, & permits.	1. By 3rd quarter, activate vacant space on Main Street to provide periodic town hall/remote city hall outreach for community engagement. 2. Measure the frequency and types of events hosted. 3. Number of "Did you know" campaigns created. 4. Number of in person events conducted on a particular topic.	5	Complete & Ongoing; Staff will continue to work with the Chamber of Commerce to produce the "Did You Know" community education video series. Additionally, staff will continue to engage residents through various community programs and events (Future Leaders Academy, Business Roundtables, PBID, ADA Workshop, CERT, etc.) and forums to provide education about projects and processes. Upcoming community engagement events include youth facility workshops, Senior Master Plan workshops, Bike Trail Extension workshops, Fagan Barranca Park workshops.
D	2	Admin			**CRM Database** - Explore options for CRM database to enhance communications with residents.	1. Research options, software solutions and budget requirements to address communications needs with residents and business owners. 2. Present findings to Council.	5	Complete & Ongoing. #1 - Research options were concluded. #2 - Council approved an ARPA budget allocation to purchase Constant Contact CRM software and the system is now in use with several distribution lists established. Official rollout will occur during website refresh launch.
D	3	P&R			**Youth Facilities** - Explore expansion of youth facilities and resources.	1. Hire an architect to provide a building design and estimated associated construction costs. 2. Report findings back to Council.	2 ~ 2025	No additional update. Working on scheduling community workshops. Working on two additional master plans (Senior Master Plan and Barranca Master Plan) which are taking a lot of resources.
D	4	Admin			**Smoking** - Explore updating City's "No Smoking" Ordinance.	1. Research options and policies related to "No Smoking" ordinances. 2. Present findings to Council.	2 ~ 2024	BB&K has researched ordinance options and is working with the CM's Office on a Study Session for Council in Q4.
D	5	Admin			**Citywide Communications** - Analyze the effectiveness of the City's current communication efforts and provide suggestions for improvements.	1. Obtain feedback from residents on current communications practices. 2. Seek feedback from communications firm on areas for improvement. 3. Devise a plan for improvement. 4. Explore technology applications which track resident concerns.	5	Complete & Ongoing - #1 - Established an ad hoc communications committee which has provided input from residents on how to improve communications practices. Feedback included use of a CRM system which has been established. #2 and #3 - Staff continues to work with consultant to obtain monthly and quarterly feedback on communications related issues. #4 - Technology applications have been explored but budget and staff resource allocation need to be accessed prior to moving forward.
D	6	Admin	CED		**Climate Action Plan** - Secure funding and develop a Climate Action Plan.	1. Work with grant writers to keep an eye out for potential grant opportunities to support. 2. Apply and obtain grant.	3 ~ 2025	1. Staff has met with several local consultants who can assist with a CAP. Staff has delayed working with a consultant as we are now working with the County who is conducting a regional CAP (kickoff was on 8/23/24) which will include Santa Paula. Staff working with County and CED staff to access next steps in County participation.
E. Public Safety & Emergency Preparedness								
E	1	PD			**Cameras** - Pursue funding opportunities to expand safety cameras to cover critical infrastructure & public spaces.	1. Number of cameras installed.	2 ~ 2025	#1 - Priority locations are being identified for cameras with available ARPA funding. Additional funds may be requested.
E	2	PD			**Neighborhood Safety** - Strengthen neighborhood safety engagement initiatives around emergency preparedness.	1. Number of meetings conducted annually.	4 ~ 2025	#1 - Staff has conducted three Neighborhood Watch Meetings since January 1, 2024, a Community Emergency Response Team (CERT) class, and the recent National Night Out Event.

E	3	PD			**SPPD Strategic Plan** - Work towards the execution and implementation of the Police Department Strategic Plan.	1. Publish plan to Police website. 2. Provide quarterly updates to Council on progress.	4 ~ 2024	#1 - Working on completing this with website administrator in 2024.
E	4	P&R			**SPPD Facility Upgrades** - Pursue funding to complete all Police facility upgrades.	1. Develop a phased plan that outlines cost and completion dates for the projects. 2. Report quarterly on the progression of the project.	4 ~ 2024	Phase 1 of Station Construction Project is Underway (Public Lobby, Records Bureau and Patrol Briefing Room)
E	5	PD			**SPPD Community Engagement** - Develop methods and programs to connect our police with the community, local nonprofits and businesses.	1. Seek to host 1-2 Community Academy courses in English/Spanish. 2. Number of meetings conducted in the community. 3. Creation of a Police Chief's Advisory Board and number of meetings held. 4. Creation of a Community Academy and number of meetings held. 5. Number of meetings with held with Community Based Organizations (CBO's). 6. Number of events with Police Activity League (PAL).	4 ~ 2024	1.The Police Department presented a block of instruction at the City of Santa Paula Future Leaders Academy. Pending on how many of these are presented, the Police Department will plan to conduct one Citizen Academy per year. 2. Attended 3 School Board meetings 3. Police Chief's Advisory Board is in planning stages. 4. A 10-week Citizen Academy is being planned. 5. Business Roundtables, Coffee with Cops, Grand Openings (Chamber of Commerce. 6. We have participated in 7 events with PAL.
E	6	PD			**SPPD Wellness** - Expand wellness options for employees such as peer support counseling services, and mindfulness and resiliency training.	1. Number of personnel who have completed training. 2. Establish a peer support team.	5	Complete; 1. Peer Support Team has attended several trainings in peer support, mindfulness, and resiliency. 2. Therapy Dogs have visited the PD on two occasions. 3. Monthly wellness newsletter for all PD employees published.
E	7	PD	Admin		***Emergency Response** - Create an Emergency Preparedness, Response and Recovery Plan. (GP)	1. Update the Emergency Operations Plan Manual. 2. Have Emergency Services Coordinator conduct trainings with City staff. 3. Establish SOP for each City department. 4. Perform a table top exercise bi-annually.	4 ~ 2024	#1 - Emergency Operations Plan Manual has been updated and provided to City Manager. #2 - Emergency Services Coordinator has conducted ongoing CPR training and DSW training with City Staff. Emergency Services Coordinator has conducted a CERT course with 13 Santa Paula residents graduating. #3 - Working on constructing contents of a SOP for each City department. #4 - Table top exercise is being constructed and planned for 2024.
E	8	PD	Admin		**Emergency Communications** - Explore technology and increase subscribership with emergency communications to enhance disaster-preparedness efforts.	1. Measure increase in subscribership biannually. 2. Explore various technologies and associated costs to maximize subscribership.	5	Complete & Ongoing - 1. Staff continues to see increases in VC Alert and Nixle Subscribers. 2. Research concluded that the VCAlert system is the most effective means of communicating with residents during an event. In addition, all social media platforms are utilized to communicate incidents and increase subscribership to city/government trusted technology platforms.
F. Community Vitality								

F	1	P&R			**Volunteerism** - Expand, support and connect volunteers, or those with specialized skills, with local opportunities to make a difference in Santa Paula.	1. Number of volunteer projects annually. 2. Annual increase in the total number of hours logged by volunteers. 3. Host an annual volunteer appreciation event. 4. Attract retirees and professional talent. 5. Use a database to track volunteers, possibly CRM.	5	Complete & Ongoing - Staff has continued to host SP Beautiful Days with one in April 2024 and an upcoming one on October 12th, 2024. Hosted 2 volunteer appreciation events: (Dec 2023) Senior Center Volunteers as they do majority of year-round volunteer work and a volunteer appreciation dinner in May 2024 of all volunteers in the city, including sports, senior center and more. Software is up and running with over 200 volunteers in the system. Staff continually works to recruit new volunteers and is working on tracking volunteer hours.
F	2	P&R	Admin		**Internships** - Expand and enhance a Citywide Internship and Apprentice Program.	1. Research and present to Council for feedback programs, policies and a budget for a citywide internship program and an apprentice program. 2. Partner with other agencies such as Santa Paula Unified School District (SPUSD) and local community colleges.	5	Complete & Ongoing - First YARA cohort is complete; Graduation is Sept 21, 2024; 2nd cohort will begin in Feb 2025. Additionally, staff is working with Good Year Industries to possibly expand internship opportunities.
F	3	P&R			**Fagan Barranca Park Master Plan** - Pursue funding and create a Master Restoration Plan.	1. Hire consultant (biologist / landscape architect) to work with staff and community to create a master plan. 2. Present draft master plan to City Council.	3 ~ 2025	Conceptual design is compete. 70% of community workshops have been scheduled.
F	4	CED			**Code Enforcement** - Develop administrative hearing ordinance & public code education programs.	1. By Fall 2023, promote educational materials and compliance requirements through print, digital media. 2. Present the process for initiating a local code hearing officer to Council. 3. Number of educational events held. 4. Percent of tickets/fines adjudicated. 5. Percent of ticket/fines Year over Year.	3 ~ 2025	Increased development activity in Harvest and citywide has limited staff's ability to proactively address code compliance. Planning and Building & safety staff are working collaboratively to address code complaints. Recruitment is underway for a Building Inspector which will provide additional capacity for the code inspector to implement proactive community outreach and education.
F	5	Finance	PW	Admin	**Water/Sewer Bill Assistance** - Explore resources for connecting low-to-moderate or fixed income residents with programs to assist with water/sewer bills.	1. Research any previous programs and explore possible new assistance programs. 2. Present options to Council for consideration.	4 ~ 2024	#1 - Research on previous programs and current programs is almost complete and a staff report has been drafted. #2 - Anticipated presentation to Council in Oct/Nov 2024.
F	6	Admin			**Wi-Fi** - Improve Wi-Fi signal at the Community Center & Cultural Arts Building.	1. Complete tests of Wi-Fi speeds and obtain employee/guest feedback on Wi-Fi. 2. Present findings to IT Manager for analysis and upgrades. 3. Implement upgrades based on available budget. 4. Measure Increased connectivity and Wi-Fi speeds and employee/guest satisfaction for users in both buildings.	5	Complete. Tests and feedback were conducted in 2023 and 2024 in both the Community Center and Cultural Arts Building after enhancements and upgrades were made and there have been no reported issues with the Wi-Fi.
F	7	P&R			**Senior Master Plan** - Develop a Senior Master Plan.	1.Work with Senior Advisory Committee and Santa Paula Together to Create a local Senior Master Plan. 2. Hold community outreach events. 3. Present draft Master Plan to Council.	3 ~ 2025	#1 - RFP for a consultant has been advertised. Committee continues to work on developing the senior master plan; #2 - Community workshop dates have been scheduled before the end of the year.
F	8	P&R			**SPUSD Partnerships** - Work with Santa Paula Unified School District to create a joint use agreement for school and city facilities.	1. Meet with district to resume the process. 2. Provide updates to the District and Council via 2x2 Committee. 3. Bring draft MOU to Council.	3 ~ 2025	Staff has met and is working on an MOU to bring forward to the School Board and Council.

F	9	P&R			**Recreational Facilities** - Explore options for community recreational facilities (i.e. dog park, pickle ball court).	1. Research viability, associated costs and possible locations for potential activities. 2. Present findings to Council.	3 ~ 2025	#1 - Temporary dog park location has been identified. #2 - Staff expects to present findings to Council Q1 of 2025.
F	10	P&R			**Union Oil Building** - Pursue programing and public use options for the Union Oil Building.	1. Hold community outreach meetings. 2. Present findings to Council. 3. Create a Request for Proposals (RFP). 4. Present results of RFP to Council.	4 ~ 2024	#1, #2 and #3 complete. #4 - Staff and ad hoc committee has been meeting with potential users and will present committee recommendations in Oct 2024.
F	11	CED			**Historic Resources** - Update standards for preservation of historic resources.	1. Update the municipal code to include standards for historic preservation.	2 ~ 2024	Updates will occur in concert with the comprehensive municipal code update including potential expansion of the Mills Act Ordinance - 4th quarter 2024
G. Operational Excellence								
G	1	CED			**Permitting** - Streamline the application and permitting processes for businesses.	1. Implementation of software system to reduce cycle time for application and permitting processes.	4 ~ 2024	Citygate review complete and staff is working as a part of a regional city collaboration to implement Intergov permitting software 4th quarter 2024.
G	2	CED			**Municipal Code** - Review the City's municipal code to reduce irrelevant codes and update development codes.	1. Number and/or percentage of codes reduced.	3 ~ 2025	Comprehensive code update process is currently underway. Staff is coordinating with BB&K to implement the first steps of updates to the development code in Fall 2024.
G	3	Admin			**Employee Enrichment** - Develop programs around employee retention, engagement, and succession planning.	1. Increase employee training and learning opportunities by at least 50%. 2. Establish a succession plan and related policies. 3. Percent of internal promotions. 4. Percent decrease in turnover YoY.	4 ~ 2025	#1 - The Human Resources department and Emergency Services Coordinator have hosted several training and learning opportunities over the past year in excess of a 50% increase; #2 - The Making a Difference Everyday (MADE) committee has been formed and meeting regularly to obtain feedback from employees on succession planning and related policies; #3 - There have been several internal promotions in 2024.
G	4	Admin			**Personnel Policies and Procedures** - Update the City Personnel Policies and Procedures to comply with statutes.	1. Update the policy. 2. Deliver a new policy to Council by Summer 2023.	4 ~ 2024	Personnel Policy updates will be brought to Council for approval on September 4, 2024.
G	5	Admin			**Records & Retention Policy** - Update records-keeping and retention policy.	1. Update the policy. 2. Measure how many paper/electronic files are eligible for destruction on a quarterly/yearly basis. 3. Measure time it takes to locate files pre/post policy.	4 ~ 2024	#1 - The City Clerk has hired a consultant to assist in updating the policy across all departments in the organization. Staff will present policy to Council in Sept/Oct 2024.
G	6	Admin			**Staffing** - Develop a staffing augmentation plan.	1. Research options and best practices to provide redundancy and succession planning within a smaller City. 2. Present findings to Council.	0	No updates at this time.
G	7	Admin			**Wellness Options** - Expand Employee Wellness options.	1. Research options and best practices to increase wellness programs for employees. 2. Present findings to Council. 3. Implement Council supported directives.	5	Complete & Ongoing as of last Council update - Wellness options in place such as the new Wellness & Fitness Benefit and employee health events such as the Lunch & Learn Nutrition Event. Staff will continue to work with Human Resources to identify additional options.

G	8	Admin	CED	PD	**Housing/Homeless Position** - Explore opportunities to establish a Housing/Homeless Services position who will pursue partnerships and options to understand, address, and meet the needs of the unhoused including behavioral support.	1. Develop a strategy and position around housing/homeless with Council. 2. Research, budget, and create a position to address position/strategy. 3. Recruit for position. 4. Explore opportunities to establish a Housing/Homeless task force, local services position and comprehensive strategy. 5. Establish permanent facility for transitional housing. 6. Measure results through annual point in time count.	5	Complete & Ongoing - #2, #3 and #5 complete. #1 - Strategies to address the variety of homeless and housing needs are being explored in collaboration with Spirit of Santa Paula, Ventura County and several non-profit housing and service providers. #4 - Staff is seeking to utilize an expanded Affordable Housing Task force to serve as a Homeless and Housing task force. #5 Purchase of property for transitional housing complete.

CITY OF SANTA PAULA
MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Dan Singer, City Manager

Subject: FUTURE AGENDA ITEMS

Date: September 4, 2024

Agenda Item: 12.A

RECOMMENDATION:

Staff recommends City Council review future agenda items.

BACKGROUND:

The attached Future Agenda Items forecast identifies anticipated agenda items for upcoming Council meetings as well as Study Session topics and long-range discussion items. Placing this forecast on the agenda affords the Council and the public the opportunity to discuss such topics and to make any recommendations. It should be noted this is only a forecast and may change over the course of time or based on feedback by the Mayor and City Manager during review of future agendas.

ANALYSIS:

In accordance with the Council's adopted Manual of Procedural Guidelines, Section 5.1, Vice Mayor Chavez has introduced a request, Attachment B, to receive an update on the recent ADA lawsuits impacting our small businesses in town. Council is provided the opportunity to review this request and discuss placing it on a future agenda or taking other appropriate action.

STRATEGIC PLAN:

FISCAL IMPACTS:

OPTIONS:

ATTACHMENTS:

9.4.24_Future Agenda Items.A.docx
Attachment B - Council Agenda Request Form - ADA Lawsuits.pdf

Santa Paula City Council Tentative Agenda Schedule

	Study Session September 18, 4:00pm	
CDD	Discuss Animal Control and Shelter Services	
	September 18, 2024	
Fire	Ventura County Fire Department Report	
PD	School Resource Officer Contract	
CDD	Central Business District Live Entertainment Ordinance	
Finance	TDA Allocation	
Finance	Finance Department Report	
PD	Axon Body Warn Camera Contract	
Clerk	Amend Conflict of Interest Code - Reso	
PW	WCS Chloride Study Final Report	
	Regular Meeting October 2, 6:30pm	
Admin	Ventura College East Campus Presentation by Dean and President	
CDD	Community Development Department Report	
P&R	Parks & Recreation Department Report	
Clerk	Records Retention Schedule Policy	
CDD	Peoples Self Help Funding Request	
P&R	Union Oil Building Tenant Selection	
Finance	2023 City Audit	
Admin	ARPA Update and Allocation	
	STUDY SESSION TOPICS	
Admin	No Smoking Ordinance	
Finance	Development Impact Fees (DIF) Overview	Nov
Legal	Municipal Code Update – Joint Meeting with Planning Commission	Sept
	FUTURE AGENDA ITEMS	
Finance	Update on Utility Bills	
PW	Plans & Specifications for 8th Street Streetlight Repair Project	
CDD	ADU Ordinance	
CDD	Cultural Arts Presentation	Oct
Legal	Fire MOU Amendment	
Legal	Development Code Update	Oct / Nov

Updated 8/29/2024

Agenda Request Form

For Council Discussion Purposes

Name:	**Proposed Meeting Date:**	**Date:**
Pedro A Chavez	September 4, 2024	8/21/2024

Type:

Recognition _____ Proclamation _____ Policy _____

Resolution _____ Ordinance _____ Other Issue Update

Title:

ADA Lawsuits Impacting Santa Paula Small Businesses

General Description:

Request that the City Council receive an update on the ADA Lawsuits that are impacting Santa Paula small business owners.

Purpose / Objective:

Many Santa Paula small business owners have received lawsuits regarding ADA compliance issues and City Council should be informed publicly about the impact and the City's role if any that it should play in advocacy and support for our small business community.

Staff Use Only

Est. Fiscal Impact:	**Budgeted:**	**Est. Time Impact:**
$ Staff time only	Yes ☐ No ■	4 hours

Anticipated Start Date:	**Anticipated Completion Date:**
September 2024	September 2024
Strat Plan Consistency?	**Gen Plan or SPMC Consistency?**
N/A	N/A
Assigned to (Department):	**Assigned to (Person):**
Community & Economic Development	James Mason, CED Director
Committee Assignment:	
Economic Development Committee, if needed	