



CITY OF LAGUNA HILLS CITY COUNCIL/PLANNING AGENCY

REGULAR MEETING AGENDA Tuesday, November 27, 2018 – 7:00 PM (Closed Session at 6:00 PM when scheduled)

Mel Carruth, Mayor

Dore J. Gilbert, M.D., Mayor Pro Tempore

Janine Heft, Council Member

Don Sedgwick, Council Member

Location: City Council Chamber, 24035 El Toro Road, Laguna Hills, CA 92653

Any person wishing to address the City Council/Planning Agency on any matter, whether or not it appears on this Agenda, is asked to complete a pink "Request to Speak" form available on the table at the back of the Chamber. The completed form is to be submitted to the City Clerk prior to an individual being heard by the City Council/Planning Agency. Completion of the form is voluntary. All persons may attend the meeting regardless of whether this form is completed.

Members of the public wishing to address the City Council can do so during the Public Comments portion of the Agenda with a time limitation of three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes for Public Comments. If you are commenting on an Agenda item, your comments will be heard at the time that item is scheduled on the Agenda. If you are addressing the City Council on an item not listed on the Agenda, the City Council is prohibited by law from discussing or taking any action on that item.

GENERAL BUSINESS - CONVENING AT 7:00 PM

CALL TO ORDER

Resolution No. 96-04-09-1 established rules of decorum for public meetings held by the City of Laguna Hills. Resolution No. 96-04-09-1 is available on the table at the back of the City Council Chamber.

PLEDGE OF ALLEGIANCE: COUNCIL MEMBER HEFT

ROLL CALL OF CITY COUNCIL MEMBERS

CLOSED SESSION REPORT

1. PRESENTATIONS AND PROCLAMATIONS**1.1 Laguna Hills High School Student Liaison**

Recommendation: That the City Council receive an oral report from Laguna Hills High School Liaison Julia Moon.

1.2 Certificate of Recognition for Heidelberg Bakery

Recommendation: That Mayor Carruth present a Certificate of Recognition to Klaus Schldeglmann and Jeannette Takacs of Heidelberg Bakery.

2. PUBLIC COMMENTS

This is the time to address the City Council on any matter not listed on this Agenda that is within the subject matter jurisdiction of the City Council. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

3. CONSENT CALENDAR

All matters listed under "CONSENT CALENDAR" are considered to be routine and will be enacted by one motion approving the recommendation listed on the Agenda. There will be no separate discussion unless Members of the City Council or Staff request specific items be removed from the Consent Calendar.

3.1 Waive Reading in Full of all Ordinances and Resolutions on the Agenda

Recommendation: That the City Council waive reading in full of all ordinances and resolutions on the agenda and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

3.2 Approval of Minutes for November 13, 2018, Regular Meeting

Recommendation: That the City Council approve the Minutes for the November 13, 2018, Regular Meeting.

3.3 Approval of Minutes for April 28, 2018, Special Meeting

Recommendation: That the City Council approve the Minutes of the April 28, 2018, Special Meeting.

3.4 Approval of Warrant Register for the November 27, 2018, Regular Meeting

Recommendation: That the City Council approve the Warrant Register in the amount of \$882,880.55.

3.5 Civic Center First Quarter Financial Report for Fiscal Year 2018/2019

Recommendation: That the City Council receive and file the report.

3.6 First Quarter Financial & Treasurer's Report for Fiscal Year 2018/2019

Recommendation: That the City Council receive and file the First Quarter Financial and Treasurer's Report for Fiscal Year 2018/2019.

3.7 M2 Expenditure Report for the Fiscal Year Ended June 30, 2018

Recommendation: That the City Council: (1) Approve the M2 Expenditure Report for the Fiscal Year ended June 30, 2018, for submittal to OCTA; and (2) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, concerning the Measure M2 Expenditure Report for the City of Laguna Hills for the Fiscal Year ended June 30, 2018."

3.8 Annual Review of Investment & Portfolio Policies and Delegation of Investment Authority to the City Treasurer

Recommendation: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, delegating investment authority to the City Treasurer and approving a policy for the investment of surplus City funds and rescinding Resolution No. 2017-12-13-7."

3.9 Second Amendment to Office Lease for Suite 320 with Dayle McIntosh Center for the Disabled, Inc., for 24031 El Toro Road, Suite 320, Laguna Hills, California

Recommendation: That the City Council approve the Second Amendment to Office Lease with Dayle McIntosh Center for the Disabled, Inc., for 24031 El Toro Road, Suite 320, Laguna Hills, California, and authorize the City Manager to execute the Second Amendment to Lease.

3.10 Proposed Resolution Re-Establishing and Adopting Facility Rental Rates for the Laguna Hills Hockey Rink and Skate Park Located at the Laguna Hills Community Center and Sports Complex.

Recommendation: That the City Council adopt a Resolution entitled: “A Resolution of the City Council of the City of Laguna Hills, California, re-establishing and adopting the Facility Rental Fees for the Laguna Hills Hockey Rink and Skate Park located at the Laguna Hills Community Center and Sports Complex, and finding that the action is statutorily exempt from the California Environmental Quality Act (CEQA) per Section 15273 of the CEQA Guidelines and Public Resources Code Section 21080(B)(8).”

3.11 Second Reading & Adoption of Proposed Ordinance Adopting Zoning Text Amendment to Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code to Facilitate Construction of the Moulton Niguel Water District Operations Center and Site Consolidation Project

Recommendation: That the City Council adopt an Ordinance entitled: “An Ordinance of the City of Laguna Hills, California, approving and adopting Zone Text Amendments (ZTA) to Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code amending Table 9-32.040 to remove the 25 percent open space requirement in the C/PI Zone for government uses, revising Chapter 9-32 by adding new Section 9-32.050 to permit outdoor storage in the C/PI Zone for government uses, and revising Chapter 9-32 by adding new Section 9-32.060 (Fences, Walls and Hedges) to permit fences up to eight (8) feet high in the C/PI Zone for government uses.”

3.12 Second Reading & Adoption of Proposed Ordinance Adding Chapter 8-07 (Citywide Park and Recreation Facilities Fees) to the Laguna Hills Municipal Code, Establishing Development Impact Fees for Non-Subdivision Residential Development Pursuant to the Provisions of Government Code Section 66000 Under the Mitigation Fee Act for Citywide Parks, Recreation and Open Space Facilities.

Recommendation: That the City Council adopt an Ordinance entitled: “An Ordinance of the City of Laguna Hills, California, adding Chapter 8-07 (Citywide Park and Recreation Facilities Fees) to Title 8 (Recreation, Parks, and Facilities) of the Laguna Hills Municipal Code establishing Development Impact Fees for Citywide Parks, Recreation and Open Space Facilities for non-subdivision residential development.”

3.13 Second Reading & Adoption of Proposed Ordinance Amending the Laguna Hills Municipal Code to Clarify the City's Authority to Prohibit the Discharge of Non-Stormwater Such as Runoff from Over-Irrigation to the City's Stormwater Drainage System

Recommendation: That the City Council adopt an Ordinance entitled: "An Ordinance of the City of Laguna Hills, California, amending Section 5-36.040 of the Laguna Hills Municipal Code pertaining to prohibition on illicit connections and prohibited discharges to the Stormwater Drainage System, and repealing Section 12-20.030 of the Laguna Hills Municipal Code pertaining to running of water upon the right-of-way."

ITEMS REMOVED FROM THE CONSENT CALENDAR

4. PLANNING AGENCY

4.1. ROLL CALL OF PLANNING AGENCY MEMBERS

4.2. PUBLIC COMMENTS

This is the time to address the Planning Agency on any matter not listed on this Agenda that is within the subject matter jurisdiction of the Planning Agency. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

4.3. APPROVAL OF MINUTES FOR NOVEMBER 13, 2018, REGULAR MEETING

4.3.1 Approval of Minutes for November 13, 2018, Regular Meeting

Recommendation: That the Planning Agency approve the Minutes for the November 13, Regular Meeting.

4.4. ADMINISTRATIVE REPORTS

4.5. PLANNING AGENCY PUBLIC HEARINGS

PLANNING AGENCY ADJOURNMENT

5. CITY COUNCIL PUBLIC HEARINGS

5.1 A Proposed Resolution Establishing a New Apiary Registration Fee.

Recommendation: That the City Council: (1) Conduct a Public Hearing; (2) Find and determine that the proposal is statutorily exempt from the California Environmental Quality Act (CEQA) per Section 15273 of the CEQA Guidelines and Public Resources Code Section 21080(B)(8); and (3) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, establishing a new Apiary Registration Fee".

6. ADMINISTRATIVE REPORTS**6.1. City Manager****6.2. City Attorney****6.2.1 Proposed Resolution Ratifying Changes to the Compensation of the City Manager, an Unrepresented Employee, in Accordance with Government Code Section 36506**

Recommendation: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, Ratifying Changes to the Compensation of the City Manager, an Unrepresented Employee, in accordance with Government Code Section 36506."

7. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS**7.1 Association of California Cities - Orange County**

Recommendation: That the City Council discuss the City's membership in the Association of California Cities-Orange County.

8. CITY COUNCIL MEMBER COMMENTS**ADJOURNMENT**

The next Regular Meeting of the City Council/Planning Agency will be December 11, 2018, in the City Council Chamber, located at 24035 El Toro Road, Laguna Hills, California.

CERTIFICATION

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, do hereby certify that a copy of the foregoing Agenda was posted at Laguna Hills City Hall, Laguna Hills Community Center, and the Courtyard at La Paz Center by November 21, 2018, at 5:00 pm.



City Clerk

November 21, 2018

Date

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the office of the City Clerk at (949) 707-2635. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 24035 El Toro Road, Laguna Hills, California, during normal business hours.

City Council Members receive no additional compensation or stipend as a result of simultaneously convening meetings of the Laguna Hills Planning Agency.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018
TO: Mayor and Council Members
FROM: Melissa Au-Yeung
Deputy City Manager
ISSUE: Certificate of Recognition for Heidelberg Bakery

RECOMMENDATION: That Mayor Carruth present a Certificate of Recognition to Klaus Schldeglmann and Jeannette Takacs of Heidelberg Bakery.

SUMMARY:

The City Council will present a Certificate of Recognition to Klaus Schldeglmann and Jeannette Takacs, owners of Heidelberg Bakery, to acknowledge Heidelberg Bakery's outstanding and dedicated service to the community. Heidelberg Bakery has shown continual support of Laguna Hills' community events, including the Laguna Hills High School Grad Nite Preview Event, and the Memorial Day Half Marathan, 10k and 5k, as well as to the 3rd Battalion, 5th Marines Support Committee, Team Dark Horse.

ATTACHMENTS:

- Certificate of Recognition



CITY OF LAGUNA HILLS

CERTIFICATE OF RECOGNITION

Heidelberg Bakery

WHEREAS, *Heidelberg Bakery has been a fixture in the City of Laguna Hills for many years and is currently located in the La Paz Village Center, 25260 La Paz Road, Suite B, and is owned by Klaus Schldeglmann and Jeannette Takacs; and*

WHEREAS, *in acknowledgement of Heidelberg Bakery's continual support of Laguna Hills' community events, including the Laguna Hills High School Grad Night Preview Event and the Memorial Day Half Marathon, 10K and 5K Race; and*

WHEREAS, *in recognition of the exceptional support and dedication shown by Heidelberg Bakery to Team Dark Horse, Laguna Hills' 3/5 Support Committee, most recently by providing collection boxes for the "Diaper Drive" and the "Holiday Toy and Gift Drive"; and*

WHEREAS, *in appreciation of Heidelberg Bakery's outstanding and dedicated service to the community and willingness to contribute to helping others.*

NOW, THEREFORE, *I, Melody Carruth, Mayor, on behalf of the City Council of the City of Laguna Hills, California, present you this Certificate of Recognition to express our deep appreciation for your many contributions to the community and wish you continued success for years to come.*

Dated this 27th day of November 2018.

MELODY CARRUTH, MAYOR

Attachment: Certificate of Recognition (1739 : Certificate of Recognition to Heidelberg Bakery)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018
TO: Mayor and Council Members
FROM: Jennifer Lee
Assistant City Clerk
ISSUE: Approval of Minutes for November 13, 2018, Regular Meeting

RECOMMENDATION: That the City Council approve the Minutes for the November 13, 2018, Regular Meeting.

ATTACHMENTS:

- 181113 CC Minutes

**CITY OF LAGUNA HILLS
CITY COUNCIL/PLANNING AGENCY**

**REGULAR MEETING
MINUTES
Tuesday, November 13, 2018**

CLOSED SESSION - CONVENING AT 6:00 PM

CALL TO ORDER

The meeting was called to order at 6:00 p.m. by Mayor Carruth.

ROLL CALL OF CITY COUNCIL MEMBERS

Attendee Name	Title	Status	Arrived
Mel Carruth	Mayor	Present	
Dore J. Gilbert, M.D.	Mayor Pro Tempore	Present	
Janine Heft	Council Member	Present	
Don Sedgwick	Council Member	Present	

ANNOUNCEMENT OF CLOSED SESSION ITEMS

The City Council shall convene into Closed Session, in the City Council Conference Room, City Hall, Laguna Hills Civic Center, to consider the following matter(s):

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957(b)(1)
Public Employee Title: City Manager - Annual Performance Evaluation

B. CONFERENCE WITH LABOR NEGOTIATOR

Pursuant to Government Code Section 54957.6
Agency Negotiator: Mel Carruth, Mayor
Unrepresented Employee: Don White, City Manager

PUBLIC COMMENT ON CLOSED SESSION ITEMS

There were no Public Comments on Closed Session Items.

ADJOURN TO CITY COUNCIL CONFERENCE ROOM

Attachment: 181113 CC Minutes (1726 : Approval of Minutes for November 13, 2018, Regular Meeting)

CONVENE INTO CLOSED SESSION

The City Council will convene into Closed Session to consider the matter(s) listed above.

RECONVENE TO CITY COUNCIL CHAMBERS**RECESS****GENERAL BUSINESS - CONVENING AT 7:00 PM****CALL TO ORDER**

The meeting was called to order at 7:00 p.m. by Mayor Carruth.

PLEDGE OF ALLEGIANCE: MAYOR PRO TEMPORE GILBERT**ROLL CALL OF CITY COUNCIL MEMBERS**

Attendee Name	Title	Status	Arrived
Mel Carruth	Mayor	Present	
Dore J. Gilbert, M.D.	Mayor Pro Tempore	Present	
Janine Heft	Council Member	Present	
Don Sedgwick	Council Member	Present	

CLOSED SESSION REPORT**A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code Section 54957(b)(1)

Public Employee Title: City Manager - Annual Performance Evaluation

B. CONFERENCE WITH LABOR NEGOTIATOR

Pursuant to Government Code Section 54957.6

Agency Negotiator: Mel Carruth, Mayor

Unrepresented Employee: Don White, City Manager

City Attorney Simonian stated that the City Council convened into Closed Session this evening pursuant to the authorities listed on the Agenda. The Council completed Items A and B with no reportable action taken.

Motion made by Mayor Carruth that in recognition of exceptional job performance during the calendar year under review, City Manager White be awarded on a one-time basis, eight (8) days of paid executive leave effective November 1, 2018, and the City

Council direct the City Attorney to return to the next regularly scheduled City Council meeting with a Resolution ratifying this action.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mel Carruth, Mayor
SECONDER:	Don Sedgwick, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

1. PRESENTATIONS AND PROCLAMATIONS

1.1 Laguna Hills High School Student Liaison

Recommendation: The City Council received an oral report from Laguna Hills High School Student Liaison Julia Moon.

1.2 Laguna Hills 3/5 Marine Support Committee

Recommendation: The City Council received an update from Committee Member, Roy Fussell on the 3/5 Dark Horse Committee.

1.3 OC Mosquito and Vector Control District

Recommendation: The City Council received an update from Larry Woodruff on the OC Mosquito and Vector Control District.

1.4 Recognition of Chef Leo Razo, First Place Winner at Orange County's World-Wide Semi-Finals for Paella Valenciana

Recommendation: Mayor Carruth presented a Certificate of Recognition to Chef Leo Razo.

2. PUBLIC COMMENTS

Chelsea Bowers, City Net Director of Public Affairs, spoke regarding the 2019 Orange County Homeless Point-in-Time count and survey.

3. CONSENT CALENDAR

Motion to approve the Consent Calendar, with Council Member Heft removing Item No. 3.5 and Mayor Carruth removing Items No. 3.7 and 3.12.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Don Sedgwick, Council Member
SECONDER:	Janine Heft, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

3.1 Waive Reading in Full of all Ordinances and Resolutions on the Agenda

Recommendation: That the City Council waive reading in full of all ordinances and resolutions on the agenda and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

3.2 Approval of Minutes for October 9, 2018, Regular Meeting

Recommendation: That the City Council approve the Minutes for the October 9, 2018, Regular Meeting.

3.3 Approval of Warrant Register for the November 13, 2018, Regular Meeting

Recommendation: That the City Council approve the Warrant Register in the amount of \$1,455,793.04.

3.4 Second Reading & Adoption of Proposed Ordinance Adopting Zoning Text Amendment No. 1-17-3757, Amending Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code to Update Regulations Related to Accessory Dwelling Units in Accordance with State Law

Recommendation: That the City Council Ordinance No. 2018-7: "An Ordinance of the City of Laguna Hills, California, adopting Zoning Text Amendment No. 1-17-3757, an amendment to Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code, amending and restating Chapter 9-68 (Accessory Living Quarters/Second Unit Housing) and amending Section 9-04.010 and Tables 9-10.050, 9-12.020, 9-14.020, 9-16.020, 9-18.020, 9-20.020, 9-44.A and 9-92.030 to allow Accessory Dwelling Units in Residential Zoning Districts in accordance with State law, including an exemption from the California Environmental Quality Act (CEQA) per CEQA Guidelines Sections 15060(C)(2) and (C)(3) and Public Resources Code Section 21080.17."

3.6 FY 2017-2018 Development Impact Fees Annual Report

Recommendation: That the City Council approve the FY 2017-2018 Development Impact Fees Annual Report pursuant to California Government Code Section 66006.

3.8 Report Regarding Implementation of 2017 Zoning Text Amendment for Limited Personal Cultivation of Marijuana Inside a Person's Private Residence in Accordance with Proposition 64.

Recommendation: That the City Council receive and file the report.

3.9 Lake Forest Drive Traffic Signal Synchronization Project Grant Application

Recommendation: That the City Council adopt Resolution No. 2018-11-13-1: "A Resolution of the City Council of the City of Laguna Hills, California, approving the submittal of Traffic Signal Synchronization Program projects to the Orange County Transportation Authority for funding under the Competitive Measure M2 Regional Transportation Signal Synchronization Program for Lake Forest Drive."

3.10 Lease Termination Agreement for the Law Offices of Rick J. Finelli, LLP., a California Limited Liability Partnership, for 24031 El Toro Road, Suite 260, Laguna Hills, California

Recommendation: That the City Council approve a Lease Termination Agreement for Suite 260 with The Law Offices of Rick J. Finelli, LLP., a California Limited Liability Partnership, for 24031 El Toro Road, Suite 260, Laguna Hills, California, and authorize the City Manager to execute the Agreement.

3.11 Lease Termination Agreement for Carno Law Group, a Professional Law Corporation, for 24031 El Toro Road, Suite 210, Laguna Hills, California

Recommendation: That the City Council approve a Lease Termination Agreement for Suite 210 with Carno Law Group, a professional law corporation, for 24031 El Toro Road, Suite 210, Laguna Hills, California, and authorize the City Manager to execute the Agreement.

ITEMS REMOVED FROM THE CONSENT CALENDAR**3.5 Orange County Task Force on Drowning Prevention Request for Funding Support**

Council Member Heft removed Item No. 3.5 from the Consent Calendar to commend the members of the Orange County Task Force for their efforts and express her support of this cause.

Recommendation: That the City Council approve a sponsorship of \$5,000 to the Orange County Task Force on Drowning Prevention and authorize the City Manager to execute a Sponsorship Agreement.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Council Member
SECONDER:	Mel Carruth, Mayor
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

3.7 Fourth Amendment to the Amended Joint Powers Authority Agreement with the Orange County Fire Authority Formalizing the Accelerated Pension Liability Reduction Plan

Mayor Carruth removed Item No. 3.7 to acknowledge two letters received regarding the item.

Recommendation: That the City Council approve the Fourth Amendment to the Amended Joint Powers Authority Agreement with the Orange County Fire Authority and authorize the Mayor to execute the Agreement.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mel Carruth, Mayor
SECONDER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

3.12 Proposed Office Lease with Carno Law Group for 24031 El Toro Road, Suite 260, Laguna Hills, California

Mayor Carruth removed Item No. 3.12 to acknowledge a modification that was made to the Lease.

Recommendation: That the City Council approve the lease with Carno Law Group, a professional law corporation, for 24031 El Toro Road, Suite 260, Laguna Hills, California, and authorize the City Manager to execute the Lease.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mel Carruth, Mayor
SECONDER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

4. PLANNING AGENCY

Mayor Carruth recessed the City Council Meeting, and acting in capacity as Chair, called the Regular Meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:25 p.m.

4.1. ROLL CALL OF PLANNING AGENCY MEMBERS

Attendee Name	Title	Status	Arrived
Mel Carruth	Chair	Present	
Dore J. Gilbert, M.D.	Vice Chair	Present	
Janine Heft	Agency Member	Present	
Don Sedgwick	Agency Member	Present	

4.2. PUBLIC COMMENTS

There were no Public Comments.

4.3. APPROVAL OF MINUTES FOR OCTOBER 9, 2018, REGULAR MEETING

4.3.1 Approval of Minutes for the October 9, 2018, Regular Meeting

Recommendation: That the Planning Agency approve the Minutes for the October 9, 2018, Regular Meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Don Sedgwick, Council Member
SECONDER:	Janine Heft, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

4.4. ADMINISTRATIVE REPORTS

There were no Planning Agency Administrative Reports.

4.5. PLANNING AGENCY PUBLIC HEARINGS

There were no Planning Agency Public Hearings.

PLANNING AGENCY ADJOURNMENT

Chair Carruth adjourned the Planning Agency Meeting and, acting in the capacity of Chair/Mayor, called the Joint Planning Agency/City Council meeting to order at 7:26 p.m.

JOINT PLANNING AGENCY/CITY COUNCIL MEETING**ROLL CALL OF JOINT PLANNING AGENCY/CITY COUNCIL MEETING**

Attendee Name	Title	Status	Arrived
Mel Carruth	Chair/Mayor	Present	
Dore J. Gilbert, M.D.	Vice Chair/Mayor Pro Tempore	Present	
Janine Heft	Agency/Council Member	Present	
Don Sedgwick	Agency/Council Member	Present	

PUBLIC COMMENTS

There were no Public Comments.

PUBLIC HEARING

Site Development Permit/ Conditional Use Permit/ Variance/ Zone Text Amendment No. 6-15-3234, a Request by Moulton Niguel Water District to Operate a Government Facility Consisting of a New Operations Center Involving the Construction of Three New Buildings Totaling 64,664 Square Feet for Administrative Offices, Field Crew Operations, and Vehicle Repair, Renovation of Two Existing Buildings Totaling 21,735 Square Feet for Warehousing and Storage Purposes, Expansion and Relocation of Fueling Facilities, Vehicle and Equipment Storage, and Utilizing Existing Non-Compliant Driveway Access on Property Located at 26161 Gordon Road, and Consideration of Zoning Text Amendments to Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code, Amending Table 9-32.040 to Remove the 25 Percent Open Space Requirement for Government Uses, Revising Chapter 9-32 by Adding a New Section 9-32.050 to Permit Outdoor Storage in the C/PI Zone for Government Uses, and by Adding a New Section 9-32.060 (Fences, Walls and Hedges) to Permit Fences Up to Eight (8) Feet High for Government Uses

Community Development Director Chantarangsu reviewed the information provided in the staff report, provided a PowerPoint presentation and responded to Planning Agency/City Council requests for additional information.

Chair/Mayor Carruth opened the Public Hearing.

Joone Lopez, Moulton Niguel Water District General Manager, responded to Planning Agency/City Council requests for additional information.

Stuart Merrell, a resident of Laguna Hills, voiced his concerns regarding the project.

Scott Strichart, a resident of Laguna Hills, voiced his concerns regarding the project.

Jean M. Barry, a resident of Laguna Hills, voiced her concerns regarding the project.

Chair/Mayor Carruth closed the Public Hearing.

Recommendation: (1) That the Planning Agency and City Council conduct a Joint Public Hearing to consider the proposed Operations Center Project;

(2) That the Planning Agency and City Council consider the Final Initial Study/Mitigated Negative Declaration for the Moulton Niguel Water District Operations Center and Site Consolidation Project; make responsible Agency Findings; and adopt a Mitigation Monitoring and Reporting Program;

(3) That the City Council introduce for first reading, read by title only, and waive further reading of an Ordinance entitled: "An Ordinance of the City of Laguna Hills, California, approving and adopting Zone Text Amendments (ZTA) to Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code amending Table 9-32.040 to remove the 25 percent open space requirement in the C/PI Zone for government uses, revising Chapter 9-32 by adding new Section 9-32.050 to permit outdoor storage in the C/PI Zone for government uses, and revising Chapter 9-32 by adding new Section 9-32.060 (Fences, Walls and Hedges) to permit fences up to eight (8) feet high in the C/PI Zone for government uses."; and

(4) That the Planning Agency adopt Resolution No. PA2018-11-13-1: "A Resolution of the Planning Agency of the City of Laguna Hills, California, approving Site Development Permit/Conditional Use Permit/Variance/Zone Text Amendment 6-15-3234, a request by Moulton Niguel Water District to operate a

government facility consisting of a new operations center involving the construction of three new buildings totaling 64,664 square feet for administrative offices, field crew operations, and automobile vehicle repair, renovation of two existing buildings totaling 21,735 square feet for warehousing and storage purposes, expansion and relocation of fueling facilities, vehicle and equipment storage, and utilizing existing non-compliant driveway access on property located at 26161 Gordon Road in the Community/Private Institution (C/PI) Zoning District.”

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
SECONDER:	Don Sedgwick, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

JOINT PLANNING AGENCY/CITY COUNCIL MEETING ADJOURNMENT

Chair/Mayor Carruth recessed the Joint Planning Agency/City Council Meeting and reconvened the City Council Meeting at 8:42 p.m.

5. CITY COUNCIL PUBLIC HEARINGS

5.1 Security Deposit and Appeal Fee for the City’s Construction and Demolition Waste and Recycling Program

Deputy City Manager/Community Services Director Reynolds reviewed the information provided in the staff report.

Mayor Carruth opened the Public Hearing and upon seeing no one rise, closed the Public Hearing.

Recommendation: That the City Council: 1) Conduct a Public Hearing; and 2) Adopt Resolution No. 2018-11-13-2: “A Resolution of the City Council of the City of Laguna Hills, California, adjusting the Security Deposits and Appeal Fee for the City of Laguna Hills Construction and Demolition Waste Recycling Program and finding that the action is exempt from the California Environmental Quality Act (CEQA) per Section 15273 of the CEQA Guidelines and Public Resources Code Section 21080(b)(8).”

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mel Carruth, Mayor
SECONDER:	Don Sedgwick, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

5.2 Introduction and First Reading of an Ordinance Adding Chapter 8-07 (Citywide Park and Recreation Facilities Fees) to the Laguna Hills Municipal Code, Establishing Development Impact Fees for Non-Subdivision Residential Development Pursuant to the Provisions of Government Code Section 66000 Under the Mitigation Fee Act for Citywide Parks, Recreation and Open Space Facilities, and Adoption of a Resolution Establishing the Fees.

Community Development Director Chantarangsu introduced Carlos Villarreal, Willdan Financial Services Project Manager and responded to City Council requests for additional information.

Carlos Villarreal provided a PowerPoint presentation and responded to City Council requests for additional information.

Mayor Carruth opened the Public Hearing.

Adam Wood, BIA Director of Government Affairs voiced his concerns over the proposed fee.

Mayor Carruth closed the Public Hearing.

Recommendation: That the City Council: (1) Conduct a Public Hearing ; (2) Introduce for first reading, read by title only, and waive further reading of an Ordinance entitled: "An Ordinance of the City of Laguna Hills, California, adding Chapter 8-07 (Citywide Park and Recreation Facilities Fees) to Title 8 (Recreation, Parks, and Facilities) of the Laguna Hills Municipal Code establishing Development Impact Fees for Citywide Parks, Recreation and Open Space Facilities for non-subdivision residential development."; and (3) Adopt Resolution No. 2018-11-13-3: "A Resolution of the City Council of the City of Laguna Hills, California, establishing the Citywide Park and Recreational Facilities Fees and finding that the action is exempt from the California Environmental Quality Act (CEQA) per Sections 15273 of the CEQA Guidelines and Public Resources Code Section 21080."

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mel Carruth, Mayor
SECONDER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

6. ADMINISTRATIVE REPORTS

6.1. City Manager

The City Manager gave no Administrative Reports.

6.2. Assistant City Manager/Public Services Director

6.2.1 Introduction and First Reading of an Ordinance Amending the Laguna Hills Municipal Code to Clarify the City's Authority to Prohibit the Discharge of Non-Stormwater Such as Runoff from Over-Irrigation to the City's Stormwater Drainage System

Assistant City Manager/Director of Public Services Rosenfield reviewed the information provided in the staff report, provided an update of newly received information regarding the issue and responded to City Council requests for additional information.

Recommendation: That the City Council introduce for first reading, read by title only, and waive further reading of an Ordinance entitled: "An Ordinance of the City of Laguna Hills, California, amending Section 5-36.040 of the Laguna Hills Municipal Code pertaining to prohibition on illicit connections and prohibited discharges to the Stormwater Drainage System, and repealing Section 12-20.030 of the Laguna Hills Municipal Code pertaining to running of water upon the right-of-way."

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Don Sedgwick, Council Member
SECONDER:	Janine Heft, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

7. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS

7.1 San Diego Gas & Electric Rate Structure

Duane Cave, San Diego Gas & Electric External Relations Manager, spoke regarding SDG&E rates and plans to address concerns of residents and responded to Council requests for additional information.

Recommendation: That the City Council direct staff to work cooperatively with San Diego Gas & Electric and other interested stakeholders to lobby the California Public Utilities Commission to make certain policy changes that will result in lower electricity bills for Laguna Hills rate payers.

8. CITY COUNCIL MEMBER COMMENTS

Mayor Pro Tempore

Mayor Pro Tempore Gilbert reported that he attended the 4th Annual Veterans Resource Fair and Wounded Warrior Amputee Softball Game.

Mayor Carruth

Mayor Carruth reported that Joe Mueller, Mayor Pro Tempore, City of Dana Point, was elected by District Mayors to serve as the area representative on OCTA's Board of Directors.

Mayor Carruth mentioned that she attended the Veterans Day Observance event at the El Toro Memorial Park.

Mayor Carruth reminded the public that "Pizza with Police" at Mod Pizza is scheduled for November 15th.

Mayor Carruth requested staff provide a staff report regarding the City's ACC-OC membership to be agendized for the November 27, 2018 meeting.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Carruth declared the meeting adjourned at 9:40 p.m.

Melissa Au-Yeung, City Clerk

ATTEST:

Melody Carruth, Mayor

Approved at meeting of November 27, 2018



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018
TO: Mayor and Council Members
FROM: Jennifer Lee
Assistant City Clerk
ISSUE: Approval of Minutes for April 28, 2018, Special Meeting

RECOMMENDATION: That the City Council approve the Minutes of the April 28, 2018, Special Meeting.

ATTACHMENTS:

- 180428 CC Special Minutes

**CITY OF LAGUNA HILLS
CITY COUNCIL/PLANNING AGENCY**

**SPECIAL MEETING
MINUTES
Saturday, April 28, 2018**

CALL TO ORDER

The meeting was called to order at 9:05 a.m. by Mayor Carruth.

PLEDGE OF ALLEGIANCE: COUNCIL MEMBER KOGERMAN

ROLL CALL OF CITY COUNCIL MEMBERS

Attendee Name	Title	Status	Arrived
Mel Carruth	Mayor	Present	
Dore J. Gilbert, M.D.	Mayor Pro Tempore	Late	9:15 AM
Janine Heft	Council Member	Present	
Don Sedgwick	Council Member	Present	
Barbara D. Kogerman	Council Member	Present	

PUBLIC COMMENTS

Athenia Papadapolos, a member of the Laguna Woods Board Association, spoke regarding the need for an improved parking situation and safety.

CITY COUNCIL WORKSHOP ITEMS

1. Management Goal-Setting: Thematic Goal and Defining Objectives

Recommendation: That the City Council review and comment on Management's Thematic Goal and Defining Objectives for the time frame March 1, 2018, to June 30, 2019.

City Manager White provided an oral report to the City Council outlining the management team's Thematic Goal and Defining Objectives. The City Council discussed the Thematic Goal and Defining Objectives and concurred with the Thematic Goals and Defining Objectives as presented by staff.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Barbara D. Kogerman, Council Member
SECONDER:	Janine Heft, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member, Barbara D. Kogerman, Council Member

2 General Municipal Financial Update

City Manager White provided a PowerPoint presentation detailing an updated 8-Year Plan, as well as provided a comprehensive review of the City's finances. City Manager White reviewed the guiding principles and assumptions incorporated within the updated 8-Year Plan.

Recommendation: That the City Council receive a General Municipal Financial Update from staff and discuss related issues.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mel Carruth, Mayor
SECONDER:	Don Sedgwick, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member, Barbara D. Kogerman, Council Member

3 Overview of the Community Showcase Video Program: a Video Tour of Laguna Hills

Senior Management Analyst Haston reviewed the information in the staff report and provided an overview of the Community Showcase Video Program as developed by CGI Communications, Inc. Senior Management Analyst Haston presented examples of other cities who had partnered with CGI Communications for the Community Showcase Video Program, including the cities of Montebello and Placerville.

Recommendation: That the City Council provide direction to staff and receive and file the report.

The City Council directed staff to work with CGI Communications to explore implementing a Community Showcase Video Program for the City of Laguna Hills.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Council Member
SECONDER:	Barbara D. Kogerman, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member, Barbara D. Kogerman, Council Member

4 City Council Policy Updates

Deputy City Manager Au-Yeung indicated that staff conducted a comprehensive review of the City Council Policy Manual and, as a result, is recommending changes to ten of the City Council Policies. Deputy City Manager Au-Yeung reviewed the recommended changes, which included minor changes to City Council Policy No. 110, 201, 305, and 350, substantial changes were recommended for City Council Policy No. 120, 309, 311, 313, and 314, and deletion of City Council Policy No. 320.

Deputy City Manager Au-Yeung and City Manager White responded to questions from the City Council regarding City Council Policy No. 120 pertaining to the addition of a new section regarding procedures for City Council Members placing items on a City Council agenda.

Recommendation: That the City Council discuss and provide direction to staff concerning the following existing City Council Policies:

- a) City Council Policy No. 110: City Recognition Policy
- b) City Council Policy No. 120: Procedures for Council Members to Place Items on a City Council Agenda
- c) City Council Policy No. 201: Appointment of Commissioners
- d) City Council Policy No. 305: Advertising/Temporary Signs in City Parks
- e) City Council Policy No. 309: Community Center Facility Reservation Policy
- f) City Council Policy No. 311: Group Picnic/Park Reservation Policy
- g) City Council Policy No. 313: Gymnasium Rental and Use Policy
- h) City Council Policy No. 314: Athletic Field/Roller Hockey/Skate Park Facility Reservation Policy
- i) City Council Policy No. 320: Contract Change Order
- j) City Council Policy No. 350: Residential Streets Traffic Management Policy

Mayor Pro Tempore Gilbert motioned to direct staff to move forward with the updates to the City Council Policies as recommended. Pertaining to City Council

Policy No. 120, Mayor Pro Tempore Gilbert moved that the policy be updated to require City Council Members wishing to place items on a City Council agenda to bring the requested item up for discussion under the City Council Member Comments section. Once a second is received, the requested item will be added to a new "Future City Council Member Agenda Items" section for discussion at a future City Council meeting. Should a City Council Member desire the adoption of an Ordinance or Resolution, the recommended action for the agenda item should include direction to staff to prepare and return with an Ordinance or Resolution at a future meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
SECONDER:	Don Sedgwick, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member, Barbara D. Kogerman, Council Member

5 Discussion of a Proposed New City Council Policy Regarding Digital Devices, Electronic Accounts, Electronic Communications Management, and Records Retention

City Attorney Simonian provided an oral report to the City Council outlining the recent California Supreme Court decision in City of San Jose, et al. v. Superior Court, regarding the conducting of public business on personal electronic accounts and devices. City Attorney Simonian reviewed in-depth the proposed City Council Policy regarding digital devices and electronic accounts.

Recommendation: That the City Council discuss and provide direction to staff regarding a new Proposed City Council Policy regarding Digital Devices, Email Accounts, Electronic Communications Management, and Records Retention in response to the recent California Supreme Court decision in City of San Jose, et al. v. Superior Court, 2 Cal.5th 608 (2017).

Motion to direct staff to bring the new policy to a City Council Regular Meeting for approval.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mel Carruth, Mayor
SECONDER:	Janine Heft, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member, Barbara D. Kogerman, Council Member

6 Discussion of a Proposed New Administrative Citation Program for Code Enforcement

Community Development Director Chantarangsu reviewed the information provided in the staff report and provided a brief PowerPoint presentation.

Recommendation: That the City Council provide input to staff on its approach for a proposed new Administrative Citation Program for Code Enforcement.

Motion to direct staff to bring the new policy to a City Council Regular Meeting for approval.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
SECONDER:	Barbara D. Kogerman, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member, Barbara D. Kogerman, Council Member

CITY COUNCIL COMMENTS

Council Member Kogerman

Council Member Kogerman spoke regarding schools in the City and indicated she would like to see greater cooperation between the City and school district.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Carruth declared the meeting adjourned at 1:38p.m.

Melissa Au-Yeung, City Clerk

ATTEST:

Melody Carruth, Mayor

Approved at meeting of November 27, 2018

Attachment: 180428 CC Special Minutes (1614 : Approval of Minutes for April 28, 2018 Special Meeting)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018
TO: Mayor and Council Members
FROM: Janice Reyes
Finance Director
ISSUE: Approval of Warrant Register for the November 27, 2018, Regular Meeting

RECOMMENDATION: That the City Council approve the Warrant Register in the amount of \$882,880.55.

SUMMARY:

The attached Warrant Register reflects the disbursements of the City of Laguna Hills for the period reported thereon. In accordance with Government Code Section 37202, the Director of Finance certifies to the accuracy of the attached register of demands and to the availability of monies for payment thereof. These demands are hereby submitted to the City Council for approval of payment.

ATTACHMENTS:

- Warrant Register - November 27, 2018



City of Laguna Hills, CA

Warrant Register – November 27, 2018

By Check Number

Date Range: 11/02/2018 - 11/16/2018

Vendor Number	Vendor Name	Payment Date	Payment Amount	Number
A-0370	ACCOUNTEMPS	11/08/2018	740.00	881533
C-1179	CANON SOLUTIONS AMERICA	11/08/2018	158.74	881533
C-1184	CEP AMERICA AUC PC	11/08/2018	140.00	881533
C-1139	COMPLETE OFFICE OF CALIFORNIA	11/08/2018	972.85	881533
C-0023	COX COMMUNICATION	11/08/2018	205.12	881534
D-0561	DOCU-TRUST LAGUNA VAULT	11/08/2018	75.00	881534
E-0554	ECONOMICS, INC.	11/08/2018	3,525.00	881534
E-0587	EMC DESIGN	11/08/2018	3,515.00	881534
H-0829	HARTZOG & CRABILL, INC.	11/08/2018	2,252.76	881534
M-1546	MAILFINANCE, INC.	11/08/2018	498.39	881534
M-1302	MOULTON NIGUEL WATER DISTRICT	11/08/2018	20,629.17	881534
N-1474	NIEVES LANDSCAPE, INC.	11/08/2018	82,779.99	881534
O-1546	OFFICE SOLUTIONS	11/08/2018	49.93	881534
O-1500	ORANGE COUNTY REGISTER	11/08/2018	145.32	881534
Q-1707	QUEST DIAGNOSTICS	11/08/2018	75.48	881535
R-1830	RALPHS GROCERY COMPANY	11/08/2018	15.59	881535
S-1902	SAN DIEGO GAS & ELECTRIC	11/08/2018	9,299.89	881535
S-2194	SECURE LIVE SCAN	11/08/2018	60.00	881535
S-1904	SOUTHERN CALIFORNIA EDISON	11/08/2018	14,811.55	881535
S-2209	STUDIO TWO BLACK DIAMOND	11/08/2018	226.28	881535
S-2201	SUNSET PROPERTY SERVICES JONSET	11/08/2018	11,333.34	881535
U-2121	U.S. POSTAL SERVICE	11/08/2018	2,500.00	881535
U-2165	UNDERGROUND SERVICE ALERT OF SOUTHERN	11/08/2018	109.00	881535
V-2224	VERIZON WIRELESS	11/08/2018	1,289.33	881535
W-2426	WHITE NELSON DIEHL EVANS LLP	11/08/2018	2,700.00	881536
X-2400	XEROX CORPORATION	11/08/2018	872.94	881536
A-0349	A SOURCE OF PRIDE	11/15/2018	40.41	881536
A-0370	ACCOUNTEMPS	11/15/2018	740.00	881536
A-0138	ALL CITY MANAGEMENT, INC.	11/15/2018	9,283.20	881536
A-0359	ANDERSON PENNA PARTNERS, INC.	11/15/2018	12,658.75	881536
B-0304	BEE MAN, THE	11/15/2018	150.00	881536
C-0412	C&D ELECTRIC, INC.	11/15/2018	168.00	881536
C-1133	CALIFORNIA YELLOW CAB	11/15/2018	2,562.00	881536
C-1139	COMPLETE OFFICE OF CALIFORNIA	11/15/2018	146.67	881536
C-1176	COMPUTER SERVICE CO.	11/15/2018	11,317.60	881537
C-0023	COX COMMUNICATION	11/15/2018	850.54	881537
C-1146	CYBERSOURCE CORPORATION	11/15/2018	29.00	881537
D-0461	DATA TICKET, INC.	11/15/2018	800.03	881537
D-0552	DUNBAR ARMORED, INC.	11/15/2018	148.90	881537
E-0593	EISENBERG, DALE	11/15/2018	1,057.00	881537
E-0553	ELKINS, CHRISTINA	11/15/2018	254.80	881537
H-0959	HABASH, JOHN	11/15/2018	58.80	881537
I-0942	IRVINE RANCH WATER DISTRICT	11/15/2018	157.38	881537
M-1552	MARTIN-RUSK, DINA	11/15/2018	252.00	881537
M-1388	MOBILE MINI, INC.	11/15/2018	82.97	881538
O-1546	OFFICE SOLUTIONS	11/15/2018	133.46	881538
R-1967	RUSSELL, RICHARD WYATT	11/15/2018	2,286.40	881538
S-2250	SPARKLETTS	11/15/2018	149.04	881538
S-2059	STAPLETON, VIVIAN	11/15/2018	332.50	881538
S-1980	STATE DEPARTMENT OF JUSTICE ACCOUNTING	11/15/2018	96.00	881538
S-2209	STUDIO TWO BLACK DIAMOND	11/15/2018	123.92	881538
T-2042	TRAUMA INTERVENTION PROGRAMS	11/15/2018	910.32	881538
T-2706	TREVINO, ROCIO	11/15/2018	148.40	881538
W-2441	WEST COAST MOVEMENT PROJECT, LLC	11/15/2018	11,450.60	881538

Attachment: Warrant Register - November 27, 2018 (1741 : Approval of Warrant Register for November 27, 2018)

Vendor Number	Vendor Name	Payment Date	Payment Amount	Number
W-2302	WEST PUBLISHING CORPORATION THOMSON	11/15/2018	232.84	881539
C-1007	OCSD LAW ENFORCEMENT CONTRACT, OC	11/06/2018	667,278.35	DFT00005

Bank Code AP Bank Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	61	55	0.00	215,602.20
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	1	1	0.00	667,278.35
EFT's	0	0	0.00	0.00
	62	56	0.00	882,880.55

Attachment: Warrant Register - November 27, 2018 (1741 : Approval of Warrant Register for November 27, 2018)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Deputy City Manager

ISSUE: Civic Center First Quarter Financial Report for Fiscal Year 2018/2019

RECOMMENDATION: That the City Council receive and file the report.

SUMMARY:

This Civic Center First Quarter Financial Report for Fiscal Year 2018/2019 is intended to provide the City Council with an overview of the Civic Center leasing operation finances over the July 2018 through September 2018 period.

The abridged Balance Sheet and Income Statement summary for the Laguna Hills Civic Center leasing operation is in Tables 1 & 2. As of September 30, 2017, the balance sheet shows equity of \$7,890,690.

Table 1: Abridged Balance Sheet
As of September 30, 2018

ASSETS	
Total Current Assets	\$ 318,595
Total Fixed Assets	\$ 7,647,525
TOTAL ASSETS	\$ 7,966,120
LIABILITY & EQUITY	
Total Current Liabilities	\$ 75,430
Total Equity	\$ 7,890,690
TOTAL LIABILITIES & EQUITY	\$ 7,966,120

Table 2: Income Statement Summary
For the Period Ended September 30, 2018

	Actuals	Budgeted	Variance
Total Income	\$ 154,043	\$ 153,835	\$ 208
Total Expenses	\$ 134,788	\$ 169,436	\$ (34,648)
NET INCOME/(LOSS)	<u>\$ 19,255</u>	<u>\$ (15,600)</u>	

As shown in Table 2, Essex Realty, the management company for the property, reported a net income of \$19,255 for the three months of leasing activity from July 1, 2017, to September 30, 2017. After adding back contra rent revenue associated with the City's occupied spaces, the effective net income for the quarter is \$156,746.15.

A detailed Balance Sheet, Income Statement, and Check Register for the three months of the quarter have been provided as attachments to this report.

ATTACHMENTS:

- Balance Sheet as of September 30, 2018
- Income Statement for the Period Ending September 30, 2018
- Check Register for July, August, and September 2018

Database: ESSEXREALTY
 ENTITY: 742

Standard Balance Sheet
Essex Realty SaaS DB
CITY OF LAGUNA HILLS

Page: 1
 Date: 10/2/2018
 Time: 07:30 PM

Accrual

Report includes an open period. Entries are not final.

Sep 2018

ASSETS

CURRENT ASSETS

Cash - Operating	124,700.40
Cash - MMA	125,608.76

TOTAL CASH AND CASH EQUIVALENTS	250,309.16
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Accounts Receivable	7,601.61
Prepaid Insurance	60,684.08

NET ACCOUNTS RECEIVABLE	68,285.69
--------------------------------	------------------

TOTAL CURRENT ASSETS	318,594.85
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FIXED ASSETS

Land	2,855,425.10
Building	3,344,613.52
Capital Improvements	9,975,099.29
Tenant Improvements	1,343,094.05
Lease Commissions	299,149.24
Accumulated Depreciation	(10,169,856.30)

TOTAL FIXED ASSETS	7,647,524.90
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TOTAL ASSETS	7,966,119.75
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LIABILITIES & EQUITY

CURRENT LIABILITY

Prepaid Rent & CAM	43.73
Accrued Expenses	26,321.00
Security Deposits	49,065.33

TOTAL CURRENT LIABILITY	75,430.06
--------------------------------	------------------

LONG TERM LIABILITY

TOTAL LONG TERM LIABILITIES	0.00
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EQUITY

Current Yr Earnings	19,254.95
Distribution	(700,000.00)
Capital	6,064,688.39
Paid by Owner	8,940,638.49
Funds from Owner	1,686,863.71
Retained Earnings	(8,120,755.85)

TOTAL EQUITY	7,890,689.69
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Attachment: Balance Sheet as of September 30, 2018 (1733 : Civic Center First Quarter Financial Report for FY 18/19)

Database: ESSEXREALTY
 ENTITY: 742

Standard Balance Sheet
Essex Realty SaaS DB
CITY OF LAGUNA HILLS

Page: 2
 Date: 10/2/2018
 Time: 07:30 PM

Accrual

Report includes an open period. Entries are not final.

Sep 2018

TOTAL LIABILITIES & EQUITY

7,966,119.75

Attachment: Balance Sheet as of September 30, 2018 (1733 : Civic Center First Quarter Financial Report for FY 18/19)

Database: ESSEXREALTY
 ENTITY: 742

Income Statement
Income Statement
Essex Realty SaaS DB
CITY OF LAGUNA HILLS

Page: 1
 Date: 10/2/2018
 Time: 07:30 PM

Accrual

Report includes an open period. Entries are not final.

	Current Period	Year-To-Date
	1 Month	3 Months
Thru:	Sep 2018	Sep 2018
INCOME		
RENTAL INCOME		
Rent	98,003.93	290,618.71
Contra Revenue	(45,830.40)	(137,491.20)
CAM Revenue	5,647.46	17,428.71
Contra CAM	(5,584.68)	(16,754.04)
TOTAL RENTAL INCOME	52,236.31	153,802.18
RECOVERY INCOME		
TOTAL RECOVERY INCOME	0.00	0.00
OTHER INCOME		
NSF Revenue	150.00	225.00
TOTAL OTHER INCOME	150.00	225.00
TOTAL INCOME	52,386.31	154,027.18

EXPENSES

DIRECT OPERATING EXPENSES

Security-Fire Alarms	213.00	450.00
Cleaning Contract-Janitor	3,293.00	9,918.84
Add'l Cleaning-DayPorter	3,279.20	9,837.60
Cleaning Supplies	669.53	1,339.50
Mgmt Fee-Agent	3,783.21	11,313.35
HVAC Contract Services	964.90	3,018.70
HVAC Repair/Maint	3,821.83	3,821.83
Elevator Contract Service	529.70	1,544.70
Plumbing Repairs/Supplies	150.00	150.00
Electrical Repair/Maint	0.00	1,472.23
Floor & Carpet Rpr/Maint	0.00	875.00
Pest Control	75.00	225.00
Misc Repair/Maint	2,225.00	2,225.00
Electricity-General	14,315.28	38,762.62
Gas	42.45	112.72
Water & Sewer	1,458.15	3,713.91
Property Telephone	3,718.64	4,609.94
Pkg Lot-Lighting	75.00	1,625.00
Pkg Lot-Sweeping	221.00	663.00
Landscaping Contract	2,400.00	7,200.00
Landscaping-Interior	329.00	1,034.30
Fountain Maintenance	150.00	450.00
Insurance	6,742.70	20,228.10
Insurance - Earthquake	861.95	2,585.75
Real Estate Taxes	0.00	55.46
TOTAL DIRECT OPERATING EXPENSES	49,318.54	127,232.55

Attachment: Income Statement for the Period Ending September 30, 2018 (1733 : Civic Center First Quarter Financial Report for FY 18/19)

Database: ESSEXREALTY
 ENTITY: 742

Income Statement
Income Statement
Essex Realty SaaS DB
CITY OF LAGUNA HILLS

Page: 2
 Date: 10/2/2018
 Time: 07:30 PM

Accrual

Report includes an open period. Entries are not final.

	Current Period	Year-To-Date
	1 Month	3 Months
Thru:	Sep 2018	Sep 2018

NET OPERATING INCOME	3,067.77	26,794.63
OTHER INCOME & EXPENSES		
Legal Fees	0.00	357.50
Admin & Professional Exp.	50.00	150.17
Environmental Expense	0.00	186.00
Repairs & Maint- Indirect	4,456.07	6,861.83
Interest Income	(5.33)	(15.82)
TOTAL OTHER INCOME & EXPENSES	4,500.74	7,539.68
NET INCOME/(LOSS)	(1,432.97)	19,254.95

Database: ESSEXREALTY
ENTITY: 742

Check Register
Essex Realty SaaS DB
CITY OF LAGUNA HILLS

Page: 1
Date: 7/30/2018
Time: 11:42 AM

07/18 Through 07/18

Check #	Check Date	Check Pd	Vendor ID	Vendor Name	Invoice	Due Date	Invoice	Discount	Check
Entity	P.O. Number	Account Number	Account Name	Invoice Number	Date		Amount	Amount	Amount
Dept	Reference	Description							
105010	7/2/2018	07/18	ELTORO	EL TORO WATER DISTRICT					
742		5502-0000	Water & Sewer	49540-061318	6/13/2018	7/3/2018	600.69	0.00	600.69
@	169922449540	05/10/18-06/13/18 Mtr 08956098							
						<i>Check Total:</i>	600.69	0.00	600.69
105011	7/2/2018	07/18	ELTORO	EL TORO WATER DISTRICT					
742		5502-0000	Water & Sewer	49542-061318	6/13/2018	7/3/2018	61.36	0.00	61.36
@	169922449542	05/10/18-06/13/18 Mtr 00036069							
						<i>Check Total:</i>	61.36	0.00	61.36
105012	7/2/2018	07/18	ELTORO	EL TORO WATER DISTRICT					
742		5502-0000	Water & Sewer	49548-061318	6/13/2018	7/3/2018	384.71	0.00	384.71
@	169922449548	05/10/18-06/13/18 Mtr 08188857							
						<i>Check Total:</i>	384.71	0.00	384.71
105013	7/2/2018	07/18	SCE	SOUTHERN CALIFORNIA EDISON					
742		5499-0000	Electricity-General	06934-062218	6/22/2018	7/11/2018	3,511.57	0.00	3,511.57
@	2270506934	05/22/18-06/21/18 Mtr 259000-050224							
						<i>Check Total:</i>	3,511.57	0.00	3,511.57
105014	7/2/2018	07/18	SCE	SOUTHERN CALIFORNIA EDISON					
742		5499-0000	Electricity-General	97749-062618	6/26/2018	7/16/2018	5,931.62	0.00	5,931.62
@	2265197749	05/23/18-06/22/18 Mtr 259000-050223							
						<i>Check Total:</i>	5,931.62	0.00	5,931.62
105015	7/11/2018	07/18	ESSEX	ESSEX REALTY MANAGEMENT INC					
742		5305-0000	Mgmt Fee-Agent	742 063018	6/30/2018	7/30/2018	48.25	0.00	48.25
@	06/18 Mgmnt Fee Rec								
742		5305-0000	Mgmt Fee-Agent	742 070118	7/1/2018	7/31/2018	3,690.00	0.00	3,690.00
@	07/18 Mgmt Fee								
						<i>Check Total:</i>	3,738.25	0.00	3,738.25
105016	7/12/2018	07/18	THEGAS	THE GAS COMPANY					
742		5500-0000	Gas	71474-070318	7/3/2018	7/24/2018	34.17	0.00	34.17
@	14430971474	05/31/18-06/29/18 Mtr 13001720							

Attachment: Check Register for July, August, and September 2018 (1733 : Civic Center First Quarter

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Check #	Check Date	Check Pd	Vendor ID	Vendor Name	Invoice	Due Date	Invoice	Discount	Check
Entity	P.O. Number	Account Number	Account Name	Invoice Number	Date		Amount	Amount	Amount
Dept	Reference	Description							
Check Total:							34.17	0.00	34.17
105017	7/12/2018	07/18	ABLEBU	CROWN BLDG MAINTENANCE CO INC dba	Unused Check				
742		5130-0000	Cleaning Contract-Janitor	M1286369-IN	6/21/2018	6/21/2018	0.00	0.00	0.00
@									
742		5160-0000	Cleaning Supplies	M1287685-IN	6/25/2018	7/25/2018	0.00	0.00	0.00
@									
Check Total:							0.00	0.00	0.00
105018	7/12/2018	07/18	AIRCO1	AIR CONTROL SYSTEMS INC	Unused Check				
742		5410-0000	HVAC Contract Services	INV-02330	6/22/2018	7/22/2018	0.00	0.00	0.00
@									
Check Total:							0.00	0.00	0.00
105019	7/12/2018	07/18	CONTRO	CONTROLLED KEY SYSTEMS INC	Unused Check				
742		4800-0000	Tenant Reimbursements	241745	6/26/2018	7/26/2018	0.00	0.00	0.00
@									
Check Total:							0.00	0.00	0.00
105020	7/12/2018	07/18	ECOGRE	ECOGREEN SOLUTIONS INC	Unused Check				
742		5465-0000	Electrical Repair/Maint	600133	6/6/2018	7/6/2018	0.00	0.00	0.00
@									
Check Total:							0.00	0.00	0.00
105021	7/12/2018	07/18	HATTOX	HATTOX DESIGN GROUP LLC	Unused Check				
742		7320-0000	Admin & Professional Exp.	1806102	6/20/2018	7/20/2018	0.00	0.00	0.00
@									
Check Total:							0.00	0.00	0.00
105022	7/12/2018	07/18	LIVIN1	DONALD GILBERT dba	Unused Check				
742		5562-0000	Landscaping-Interior	T81276	6/20/2018	7/20/2018	0.00	0.00	0.00
@									
742		5562-0000	Landscaping-Interior	T81276	6/20/2018	7/20/2018	0.00	0.00	0.00
@									

Attachment: Check Register for July, August, and September 2018 (1733 : Civic Center First Quarter

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Check #	Check Date	Check Pd	Vendor ID	Vendor Name	Invoice	Due Date	Invoice	Discount	Check
Entity	P.O. Number	Account Number	Account Name	Invoice Number	Date		Amount	Amount	Amount
Dept	Reference	Description							
Check Total:							0.00	0.00	0.00
105023	7/12/2018	07/18	MERCH1	MERCHANTS BULDING MAINTENANCE LLC	Unused Check				
742		5150-0000	Add'l Cleaning-DayPorter	493601	7/1/2018	7/11/2018	0.00	0.00	0.00
@									
Check Total:							0.00	0.00	0.00
105024	7/12/2018	07/18	NIEVES	NIEVES LANDSCAPE INC	Unused Check				
742		5560-0000	Landscaping Contract	63548	7/1/2018	7/31/2018	0.00	0.00	0.00
@									
Check Total:							0.00	0.00	0.00
105025	7/12/2018	07/18	RICHA5	RICHARD L. SEIDE APC	Unused Check				
742		7310-0000	Legal Fees	117616	7/2/2018	8/1/2018	0.00	0.00	0.00
@									
Check Total:							0.00	0.00	0.00
105026	7/12/2018	07/18	ABLEBU	CROWN BLDG MAINTENANCE CO INC dba	Unused Check				
742		5130-0000	Cleaning Contract-Janitor	M1286369-IN	6/21/2018	6/21/2018	0.00	0.00	0.00
@									
742		5160-0000	Cleaning Supplies	M1287685-IN	6/25/2018	7/25/2018	0.00	0.00	0.00
@									
Check Total:							0.00	0.00	0.00
105027	7/12/2018	07/18	AIRCO1	AIR CONTROL SYSTEMS INC	Unused Check				
742		5410-0000	HVAC Contract Services	INV-02330	6/22/2018	7/22/2018	0.00	0.00	0.00
@									
Check Total:							0.00	0.00	0.00
105028	7/12/2018	07/18	CONTRO	CONTROLLED KEY SYSTEMS INC	Unused Check				
742		4800-0000	Tenant Reimbursements	241745	6/26/2018	7/26/2018	0.00	0.00	0.00
@									
Check Total:							0.00	0.00	0.00
105029	7/12/2018	07/18	ECOGRE	ECOGREEN SOLUTIONS INC	Unused Check				

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Check # Entity Dept	Check Date P.O. Number Reference	Check Pd Account Number Description	Vendor ID Account Name	Vendor Name Account Name	Invoice Number	Invoice Date	Due Date	Invoice Amount	Discount Amount	Check Amount
742 @		5465-0000	Electrical Repair/Maint	600133	6/6/2018	7/6/2018		0.00	0.00	0.00
							<i>Check Total:</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
105030 742 @	7/12/2018	07/18 7320-0000	HATTOX Admin & Professional Exp.	HATTOX DESIGN GROUP LLC	1806102	6/20/2018	Unused Check 7/20/2018	0.00	0.00	0.00
							<i>Check Total:</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
105031 742 @ 742 @	7/12/2018	07/18 5562-0000 5562-0000	LIVIN1 Landscaping-Interior Landscaping-Interior	DONALD GILBERT dba	T81276 T81276	6/20/2018 6/20/2018	Unused Check 7/20/2018 7/20/2018	0.00 0.00	0.00 0.00	0.00 0.00
							<i>Check Total:</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
105032 742 @	7/12/2018	07/18 5150-0000	MERCH1 Add'l Cleaning-DayPorter	MERCHANTS BULDING MAINTENANCE LLC	493601	7/1/2018	Unused Check 7/11/2018	0.00	0.00	0.00
							<i>Check Total:</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
105033 742 @	7/12/2018	07/18 5560-0000	NIEVES Landscaping Contract	NIEVES LANDSCAPE INC	63548	7/1/2018	Unused Check 7/31/2018	0.00	0.00	0.00
							<i>Check Total:</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
105034 742 @	7/12/2018	07/18 7310-0000	RICHA5 Legal Fees	RICHARD L. SEIDE APC	117616	7/2/2018	Unused Check 8/1/2018	0.00	0.00	0.00
							<i>Check Total:</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
105035 742 @ 742 @	7/12/2018	07/18 5160-0000 06/18 Supplies 5130-0000 06/18 Janitorial Svc	ABLEBU Cleaning Supplies Cleaning Contract-Janitor	CROWN BLDG MAINTENANCE CO INC dba	M1287685-IN M1286369-IN	6/25/2018 6/21/2018	7/25/2018 6/21/2018	644.44 3,293.28	0.00 0.00	644.44 3,293.28

Attachment: Check Register for July, August, and September 2018 (1733 : Civic Center First Quarter

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<i>Check Total:</i>								3,937.72	0.00	3,937.72
105036	7/12/2018	07/18	AIRCO1	AIR CONTROL SYSTEMS INC						
742		5410-0000	HVAC Contract Services	INV-02330	6/22/2018	7/22/2018		2,758.00	0.00	2,758.00
@	A12407	04/18-06/18 HVAC PM Svc								
<i>Check Total:</i>								2,758.00	0.00	2,758.00
105037	7/12/2018	07/18	CONTRO	CONTROLLED KEY SYSTEMS INC						
742		4800-0000	Tenant Reimbursements	241745	6/26/2018	7/26/2018		20.65	0.00	20.65
@	210 Key Copies									
<i>Check Total:</i>								20.65	0.00	20.65
105038	7/12/2018	07/18	ECOGRE	ECOGREEN SOLUTIONS INC						
742		5465-0000	Electrical Repair/Maint	600133	6/6/2018	7/6/2018		1,022.32	0.00	1,022.32
@	LED Lighting	transformers								
<i>Check Total:</i>								1,022.32	0.00	1,022.32
105039	7/12/2018	07/18	HATTOX	HATTOX DESIGN GROUP LLC						
742		7320-0000	Admin & Professional Exp.	1806102	6/20/2018	7/20/2018		2,764.17	0.00	2,764.17
@	Design Fees Clerk	Recorder								
<i>Check Total:</i>								2,764.17	0.00	2,764.17
105040	7/12/2018	07/18	LIVIN1	DONALD GILBERT dba						
742		5562-0000	Landscaping-Interior	T81276	6/20/2018	7/20/2018		329.00	0.00	329.00
@	07/18 Int Plant Svc									
742		5562-0000	Landscaping-Interior	T81276	6/20/2018	7/20/2018		23.65	0.00	23.65
@	Bromeliad Flwr	Instll								
<i>Check Total:</i>								352.65	0.00	352.65
105041	7/12/2018	07/18	MERCH1	MERCHANTS BUILDING MAINTENANCE LLC						
742		5150-0000	Add'l Cleaning-DayPorter	493601	7/1/2018	7/11/2018		3,279.20	0.00	3,279.20
@	33013	07/18 Dayporter Svc								
<i>Check Total:</i>								3,279.20	0.00	3,279.20
105042	7/12/2018	07/18	NIEVES	NIEVES LANDSCAPE INC						

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Entity	P.O. Number	Account Number	Account Name	Invoice Number	Date		Amount	Amount	Amount
Dept	Reference	Description							
742		5560-0000	Landscaping Contract	63548	7/1/2018	7/31/2018	2,400.00	0.00	2,400.00
@	07/18 Landscaping	Svc							
						<i>Check Total:</i>	2,400.00	0.00	2,400.00
105043	7/12/2018	07/18	RICHA5	RICHARD L. SEIDE APC					
742		7310-0000	Legal Fees	117616	7/2/2018	8/1/2018	357.50	0.00	357.50
@	Legal Fees for	Broadview Mortgage							
						<i>Check Total:</i>	357.50	0.00	357.50
105044	7/23/2018	07/18	ABLEBU	CROWN BLDG MAINTENANCE CO INC dba					
742		5130-0000	Cleaning Contract-Janitor	M1291555-IN	7/20/2018	7/20/2018	3,293.28	0.00	3,293.28
@	111	07/18 Janitorial Svc							
						<i>Check Total:</i>	3,293.28	0.00	3,293.28
105045	7/23/2018	07/18	COXCOM	COX COMMUNICATIONS					
742		5410-0000	HVAC Contract Services	11901-070518	7/5/2018	7/5/2018	86.90	0.00	86.90
@	0017601048511901	07/05/18-08/04/18 DSL for EMS							
						<i>Check Total:</i>	86.90	0.00	86.90
105046	7/23/2018	07/18	REGENC	REGENCY ENTERPRISES INC dba					
742		5465-0000	Electrical Repair/Maint	4230232	7/3/2018	8/2/2018	107.52	0.00	107.52
@	1287741	Lighting supplies							
742		5465-0000	Electrical Repair/Maint	4238099	7/13/2018	8/12/2018	818.14	0.00	818.14
@	1287741	Lighting supplies							
						<i>Check Total:</i>	925.66	0.00	925.66
105047	7/23/2018	07/18	SOUT39	JEFF ALEXANDER dba					
742		5565-0000	Fountain Maintenance	371-16	7/1/2018	7/31/2018	150.00	0.00	150.00
@	07/18 Fountain Svc								
						<i>Check Total:</i>	150.00	0.00	150.00
105048	7/23/2018	07/18	TSCMCO	TSCM CORPORATION					
742		5525-0000	Pkg Lot-Sweeping	7018097	7/1/2018	7/31/2018	221.00	0.00	221.00
@	07/18 Sweeping Svc								

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Entity	P.O. Number	Account Number	Account Name	Invoice Number	Date	Due Date	Amount	Amount
Dept	Reference	Description						

Check Total: 221.00 0.00 221.00

CITY OF LAGUNA HILLS Total: 35,831.42 0.00 35,831.42

Grand Total: 35,831.42 0.00 35,831.42

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Entity	P.O. Number	Account Number	Account Name	Invoice Number	Date		Amount	Amount	Amount
Dept	Reference	Description							
105049	7/26/2018	08/18	ATTCOR	ATT CORP					
742		5504-0000	Property Telephone	000011641165	7/15/2018	8/21/2018	442.30	0.00	442.30
@	9391060982	06/15/18-07/14/18 BAN 9391060982							
						<i>Check Total:</i>	442.30	0.00	442.30
105050	8/2/2018	08/18	SCE	SOUTHERN CALIFORNIA EDISON					
742		5499-0000	Electricity-General	06934-072418	7/24/2018	8/13/2018	4,435.16	0.00	4,435.16
@	2270506934	06/21/18-07/23/18 Mtr 259000-050224							
						<i>Check Total:</i>	4,435.16	0.00	4,435.16
105051	8/2/2018	08/18	SCE	SOUTHERN CALIFORNIA EDISON					
742		5499-0000	Electricity-General	97749-072618	7/26/2018	8/14/2018	7,667.99	0.00	7,667.99
@	2265197749	06/22/18-07/24/18 Mtr 259000-050223							
						<i>Check Total:</i>	7,667.99	0.00	7,667.99
105052	8/7/2018	08/18	ELTORO	EL TORO WATER DISTRICT					
742		5502-0000	Water & Sewer	49540-071318	7/13/2018	8/2/2018	681.21	0.00	681.21
@	169922449540	06/13/18-07/13/18 Mtr 08956098							
						<i>Check Total:</i>	681.21	0.00	681.21
105053	8/7/2018	08/18	ELTORO	EL TORO WATER DISTRICT					
742		5502-0000	Water & Sewer	49542-071318	7/13/2018	8/2/2018	61.36	0.00	61.36
@	169922449542	06/13/18-07/13/18 Mtr 00036069							
						<i>Check Total:</i>	61.36	0.00	61.36
105054	8/7/2018	08/18	ELTORO	EL TORO WATER DISTRICT					
742		5502-0000	Water & Sewer	49548-071318	7/13/2018	8/2/2018	361.43	0.00	361.43
@	169922449548	06/13/18-07/13/18 Mtr 08188857							
						<i>Check Total:</i>	361.43	0.00	361.43
105055	8/15/2018	08/18	ABLEBU	CROWN BLDG MAINTENANCE CO INC dba					
742		5485-0000	Floor & Carpet Rpr/Maint	M1293800-IN	7/31/2018	7/31/2018	135.00	0.00	135.00
@	111		Steam Cln Chambers Carpet						
742		5160-0000	Cleaning Supplies	M1292151-IN	7/23/2018	7/23/2018	669.53	0.00	669.53
@	111		07/18 Supplies						

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Check #	Check Date	Check Pd	Vendor ID	Vendor Name	Invoice	Due Date	Invoice	Discount	Check
Entity	P.O. Number	Account Number	Account Name	Invoice Number	Date		Amount	Amount	Amount
Dept	Reference	Description							
<i>Check Total:</i>							804.53	0.00	804.53
105056	8/15/2018	08/18	DIXIED	DIXIE DIESEL AND ELECTRIC INC					
742		7333-0000	Repairs & Maint- Indirect	219975	8/10/2018	9/9/2018	1,278.43	0.00	1,278.43
@	Annual Major/Minor G	enerator Svc							
742		7333-0000	Repairs & Maint- Indirect	219976	8/10/2018	9/9/2018	800.00	0.00	800.00
@	Annual Generator	Load Bank Test							
<i>Check Total:</i>							2,078.43	0.00	2,078.43
105057	8/15/2018	08/18	LIVIN1	DONALD GILBERT dba					
742		5562-0000	Landscaping-Interior	T81368	7/20/2018	8/19/2018	329.00	0.00	329.00
@	08/18 Int Plant Svc								
742		5562-0000	Landscaping-Interior	T81439	8/1/2018	8/31/2018	23.65	0.00	23.65
@	Bromiliad Flwr	Instll							
<i>Check Total:</i>							352.65	0.00	352.65
105058	8/15/2018	08/18	SKYLIN	CTJAMJT CORPORATION dba					
742		5490-0000	Pest Control	99482	7/23/2018	8/22/2018	75.00	0.00	75.00
@	3018	07/18 Pest/Rodent Control							
<i>Check Total:</i>							75.00	0.00	75.00
105059	8/15/2018	08/18	SSDSYS	SECURITY SIGNAL DEVICES INC dba					
742		5121-0000	Security-Fire Alarms	1341419-A	7/11/2018	8/10/2018	100.00	0.00	100.00
@	348817	08/18 Syst Maint							
742		7333-0000	Repairs & Maint- Indirect	1341419-A	7/11/2018	8/10/2018	327.33	0.00	327.33
@	348817	08/18 Syst Maint							
<i>Check Total:</i>							427.33	0.00	427.33
105060	8/15/2018	08/18	CITYLA	CITY OF LAGUNA HILLS					
742		5805-0000	Insurance	CLH00043	7/16/2018	8/16/2018	80,912.18	0.00	80,912.18
@	010010	Liab and Prop Insurance							
<i>Check Total:</i>							80,912.18	0.00	80,912.18
105061	8/15/2018	08/18	COUN12	COUNTY OF ORANGE					
742		7326-0000	Environmental Expense	IN1147740	8/4/2018	9/4/2018	186.00	0.00	186.00
@	07/18-06/19	Environment Inspect Report for Generator							

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Check #	Check Date	Check Pd	Vendor ID	Vendor Name	Invoice	Due Date	Invoice	Discount	Check
Entity	P.O. Number	Account Number	Account Name	Invoice Number	Date		Amount	Amount	Amount
Dept	Reference	Description							
<i>Check Total:</i>							186.00	0.00	186.00
105062	8/15/2018	08/18	ESSEX	ESSEX REALTY MANAGEMENT INC					
742		5305-0000	Mgmt Fee-Agent	742 073118	7/31/2018	7/31/2018	101.89	0.00	101.89
@	07/18 Mgmt Fee Rec								
742		5305-0000	Mgmt Fee-Agent	742 080118	8/1/2018	8/1/2018	3,690.00	0.00	3,690.00
@	08/18 Mgmt Fee								
<i>Check Total:</i>							3,791.89	0.00	3,791.89
105063	8/15/2018	08/18	THEGAS	THE GAS COMPANY					
742		5500-0000	Gas	71474-080218	8/2/2018	8/22/2018	36.10	0.00	36.10
@	14430971474	06/29/18-07/31/18 Mtr 13001720							
<i>Check Total:</i>							36.10	0.00	36.10
105064	8/22/2018	08/18	CHRIS9	BAPPTRE dba SHINE ILLUMINATION AND					
742		5510-0000	Pkg Lot-Lighting	RET-00178	8/8/2018	9/8/2018	1,550.00	0.00	1,550.00
@	Deposit for Holiday	Lighting							
<i>Check Total:</i>							1,550.00	0.00	1,550.00
105065	8/22/2018	08/18	FIRESA	THE BRETHERN INC dba					
742		5121-0000	Security-Fire Alarms	1052455	7/13/2018	8/12/2018	150.00	0.00	150.00
@	ACCT1965	07/18-09/18 FA Monitoring Svc							
742		5121-0000	Security-Fire Alarms	1053050	7/30/2018	8/29/2018	195.00	0.00	195.00
@	ACCT1965	07/18-09/18 Fire Sprinkler Inspection							
<i>Check Total:</i>							345.00	0.00	345.00
105066	8/22/2018	08/18	LIGHT4	LIGHTING TECHNOLOGY SERVICES INC					
742		5465-0000	Electrical Repair/Maint	1262476	8/2/2018	9/1/2018	546.25	0.00	546.25
@	Rplc Lamps Council Chambers								
<i>Check Total:</i>							546.25	0.00	546.25
105067	8/22/2018	08/18	MASTE5	MASTERCARE PROTECTION & CLEANING					
742		5485-0000	Floor & Carpet Rpr/Maint	27798	7/31/2018	8/30/2018	740.00	0.00	740.00
@	07/18-09/18 Carpet Clean								

Attachment: Check Register for July, August, and September 2018 (1733 : Civic Center First Quarter

Database: ESSEXREALTY
ENTITY: 742

Check Register
Essex Realty SaaS DB
CITY OF LAGUNA HILLS

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08/18 Through 08/18

Check # Entity Dept	Check Date P.O. Number Reference	Check Pd Account Number	Vendor ID Account Name Description	Vendor Name Account Name	Invoice Number	Invoice Date	Due Date	Invoice Amount	Discount Amount	Check Amount
<i>Check Total:</i>								740.00	0.00	740.00
105068 742 @	8/22/2018 33013	08/18 5150-0000	MERCH1 Add'l Cleaning-DayPorter 08/18 Dayporter Svc	MERCHANTS BULDING MAINTENANCE LLC	496085	8/1/2018	8/1/2018	3,279.20	0.00	3,279.20
<i>Check Total:</i>								3,279.20	0.00	3,279.20
105069 742 @	8/22/2018 08/18 Landscape Svc	08/18 5560-0000	NIEVES Landscaping Contract	NIEVES LANDSCAPE INC	63703	8/1/2018	8/31/2018	2,400.00	0.00	2,400.00
<i>Check Total:</i>								2,400.00	0.00	2,400.00
105070 742 @	8/22/2018 08/18 Fountain Svc	08/18 5565-0000	SOUT39 Fountain Maintenance	JEFF ALEXANDER dba	371-17	8/1/2018	8/31/2018	150.00	0.00	150.00
<i>Check Total:</i>								150.00	0.00	150.00
105071 742 @	8/22/2018 08/18 Sweeping Svc	08/18 5525-0000	TSCMCO Pkg Lot-Sweeping	TSCM CORPORATION	8018097	8/1/2018	8/31/2018	221.00	0.00	221.00
<i>Check Total:</i>								221.00	0.00	221.00
105072 742 @	8/22/2018 0017601048511901	08/18 5410-0000	COXCOM HVAC Contract Services 08/05/18-09/04/18 DSL for EMS	COX COMMUNICATIONS	11901-080518	8/5/2018	8/26/2018	86.90	0.00	86.90
<i>Check Total:</i>								86.90	0.00	86.90
<i>CITY OF LAGUNA HILLS Total:</i>								111,631.91	0.00	111,631.91
<i>Grand Total:</i>								111,631.91	0.00	111,631.91

Attachment: Check Register for July, August, and September 2018 (1733 : Civic Center First Quarter

Database: ESSEXREALTY
ENTITY: 742

Check Register
Essex Realty SaaS DB
CITY OF LAGUNA HILLS

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09/18 Through 09/18

Check #	Check Date	Check Pd	Vendor ID	Vendor Name	Invoice	Due Date	Invoice	Discount	Check
Entity	P.O. Number	Account Number	Account Name	Invoice Number	Date		Amount	Amount	Amount
Dept	Reference	Description							
105073	8/27/2018	09/18	ESSEX	ESSEX REALTY MANAGEMENT INC					
742		1260-0000	Lease Commissions	742 082218	8/22/2018	8/22/2018	4,941.00	0.00	4,941.00
@	Ste 230 Lse Rnwl 60M	6/1/18-5/30/23							
						<i>Check Total:</i>	<i>4,941.00</i>	<i>0.00</i>	<i>4,941.00</i>
105074	8/27/2018	09/18	SCE	SOUTHERN CALIFORNIA EDISON					
742		5499-0000	Electricity-General	06934-082218	8/22/2018	9/10/2018	4,649.55	0.00	4,649.55
@	2270506934	07/23/18-08/21/18 Mtr 259000-050224							
						<i>Check Total:</i>	<i>4,649.55</i>	<i>0.00</i>	<i>4,649.55</i>
105075	8/27/2018	09/18	SSDSYS	SECURITY SIGNAL DEVICES INC dba					
742		5121-0000	Security-Fire Alarms	1345940-A	8/10/2018	9/9/2018	100.00	0.00	100.00
@	348817	09/18 Sys Maint							
742		7333-0000	Repairs & Maint- Indirect	1345940-A	8/10/2018	9/9/2018	327.33	0.00	327.33
@	348817	09/18 Sys Maint							
						<i>Check Total:</i>	<i>427.33</i>	<i>0.00</i>	<i>427.33</i>
105076	9/13/2018	09/18	ATTCOR	ATT CORP					
742		5504-0000	Property Telephone	000011781780	8/15/2018	9/21/2018	1,715.64	0.00	1,715.64
@	9391060982	07/15/18-08/14/18 BAN 9391060982							
						<i>Check Total:</i>	<i>1,715.64</i>	<i>0.00</i>	<i>1,715.64</i>
105077	9/13/2018	09/18	ELTORO	EL TORO WATER DISTRICT					
742		5502-0000	Water & Sewer	49540-081318	8/13/2018	9/4/2018	786.52	0.00	786.52
@	169922449540	07/13/18-08/13/18 Mtr 08956098							
						<i>Check Total:</i>	<i>786.52</i>	<i>0.00</i>	<i>786.52</i>
105078	9/13/2018	09/18	ELTORO	EL TORO WATER DISTRICT					
742		5502-0000	Water & Sewer	49542-081318	8/13/2018	9/4/2018	61.36	0.00	61.36
@	169922449542	07/13/18-08/13/18 Mtr 00036069							
						<i>Check Total:</i>	<i>61.36</i>	<i>0.00</i>	<i>61.36</i>
105079	9/13/2018	09/18	ELTORO	EL TORO WATER DISTRICT					
742		5502-0000	Water & Sewer	49548-081318	8/13/2018	9/4/2018	384.27	0.00	384.27
@	169922449548	07/13/18-08/13/18 Mtr 08188857							

Attachment: Check Register for July, August, and September 2018 (1733 : Civic Center First Quarter

Database: ESSEXREALTY
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Check Register
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CITY OF LAGUNA HILLS

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09/18 Through 09/18

Check #	Check Date	Check Pd	Vendor ID	Vendor Name	Invoice	Due Date	Invoice	Discount	Check
Entity	P.O. Number	Account Number	Account Name	Invoice Number	Date		Amount	Amount	Amount
Dept	Reference	Description							
<i>Check Total:</i>							384.27	0.00	384.27
105080	9/13/2018	09/18	ESSEX	ESSEX REALTY MANAGEMENT INC					
742		5305-0000	Mgmt Fee-Agent	742 083118	8/31/2018	8/31/2018	93.21	0.00	93.21
@	08/18 Mgmt Fee Rec								
742		5305-0000	Mgmt Fee-Agent	742 090118	9/1/2018	9/1/2018	3,690.00	0.00	3,690.00
@	09/18 Mgmt Fee								
<i>Check Total:</i>							3,783.21	0.00	3,783.21
105081	9/13/2018	09/18	SCE	SOUTHERN CALIFORNIA EDISON					
742		5499-0000	Electricity-General	97749-082418	8/24/2018	9/12/2018	8,019.73	0.00	8,019.73
@	2265197749	07/24/18-08/22/18 Mtr 259000-050223							
<i>Check Total:</i>							8,019.73	0.00	8,019.73
105082	9/13/2018	09/18	THEGAS	THE GAS COMPANY					
742		5500-0000	Gas	71474-090418	9/4/2018	9/24/2018	38.45	0.00	38.45
@	14430971474	07/31/18-08/30/18 Mtr 13001720							
<i>Check Total:</i>							38.45	0.00	38.45
105083	9/20/2018	09/18	COXCOM	COX COMMUNICATIONS					
742		5410-0000	HVAC Contract Services	11901-090518	9/5/2018	9/26/2018	86.90	0.00	86.90
@	0017601048511901	09/05/18-10/04/18 DSL for EMS							
<i>Check Total:</i>							86.90	0.00	86.90
105084	9/21/2018	09/18	00401	Kourosh Hosn					
742		1240-0000	Tenant Improvements	742-083118	8/28/2018	9/27/2018	7,344.00	0.00	7,344.00
@	230 TI Paint Reimb								
<i>Check Total:</i>							7,344.00	0.00	7,344.00
105085	9/21/2018	09/18	ABLEBU	CROWN BLDG MAINTENANCE CO INC dba					
742		5160-0000	Cleaning Supplies	M1298286-IN	8/22/2018	8/22/2018	669.53	0.00	669.53
@	111	08/18 Supplies							
742		5130-0000	Cleaning Contract-Janitor	M1297295-IN	8/20/2018	8/20/2018	3,293.28	0.00	3,293.28
@	111	08/18 Janitorial Svc							

Attachment: Check Register for July, August, and September 2018 (1733 : Civic Center First Quarter

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105088	9/21/2018	09/18	DIXIED	DIXIE DIESEL AND ELECTRIC INC					
742		7333-0000	Repairs & Maint- Indirect	220035	8/2/2018	9/1/2018	892.17	0.00	892.17
@	Rplc Batteries/Fuse		Holder for Generator						
742		7333-0000	Repairs & Maint- Indirect	220090	9/5/2018	10/5/2018	1,011.57	0.00	1,011.57
@	Rplc Block Heater								

Database: ESSEXREALTY
ENTITY: 742

Check Register
Essex Realty SaaS DB
CITY OF LAGUNA HILLS

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09/18 Through 09/18

Check # Entity Dept	Check Date P.O. Number Reference	Check Pd Account Number Description	Vendor ID Account Name	Vendor Name	Invoice Number	Invoice Date	Due Date	Invoice Amount	Discount Amount	Check Amount
<i>Check Total:</i>								1,903.74	0.00	1,903.74
105089 742 @	9/21/2018 Assess Monument Sign	09/18 5510-0000 Lighting	LIGHT4 Pkg Lot-Lighting	LIGHTING TECHNOLOGY SERVICES INC	1263151	9/4/2018	10/4/2018	75.00	0.00	75.00
<i>Check Total:</i>								75.00	0.00	75.00
105090 742 @	9/21/2018 09/18 Int Plant Svc	09/18 5562-0000	LIVIN1 Landscaping-Interior	DONALD GILBERT dba	T81473	8/20/2018	9/19/2018	329.00	0.00	329.00
<i>Check Total:</i>								329.00	0.00	329.00
105091 742 @	9/21/2018 33013	09/18 5150-0000 09/18 Dayporter Svc	MERCH1 Add'l Cleaning-DayPorter	MERCHANTS BULDING MAINTENANCE LLC	499924	9/1/2018	9/1/2018	3,279.20	0.00	3,279.20
<i>Check Total:</i>								3,279.20	0.00	3,279.20
105092 742 @	9/21/2018 09/18 Landscape Svc	09/18 5560-0000	NIEVES Landscaping Contract	NIEVES LANDSCAPE INC	63890	9/1/2018	10/1/2018	2,400.00	0.00	2,400.00
<i>Check Total:</i>								2,400.00	0.00	2,400.00
105093 742 @ 742 @	9/21/2018 3018 3018	09/18 5490-0000 5490-0000 09/18 Pest/Rodent Control	SKYLIN Pest Control 08/18 Pest/Rodent Control Pest Control	CTJAMJT CORPORATION dba	102442 105169	8/23/2018 9/17/2018	9/22/2018 10/17/2018	75.00 75.00	0.00 0.00	75.00 75.00
<i>Check Total:</i>								150.00	0.00	150.00
105094 742 @	9/21/2018 09/18 Fountain Svc	09/18 5565-0000	SOUT39 Fountain Maintenance	JEFF ALEXANDER dba	371-18	9/1/2018	10/1/2018	150.00	0.00	150.00
<i>Check Total:</i>								150.00	0.00	150.00
105095	9/21/2018	09/18	SOUT41	SOUTH COUNTY PLUMBING INC						

Database: ESSEXREALTY
 ENTITY: 742

Check Register
 Essex Realty SaaS DB
 CITY OF LAGUNA HILLS

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 Date: 10/2/2018
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09/18 Through 09/18

Check #	Check Date	Check Pd	Vendor ID	Vendor Name	Invoice	Invoice	Due Date	Invoice	Discount	Check
Entity	P.O. Number	Account Number	Account Name	Invoice Number	Date	Amount	Amount	Amount	Amount	Amount
Dept	Reference	Description								
742		5460-0000	Plumbing Repairs/Supplies	13517	8/24/2018	9/23/2018	150.00	0.00	150.00	
@	2nd FL MRR Rpr Brkn	Sink Handle								
<i>Check Total:</i>							150.00	0.00	150.00	
105096	9/21/2018	09/18	STODD1	STODDARDS RESTORATION SERVICES INC						
742		5491-0000	Misc Repair/Maint	119965	8/23/2018	9/22/2018	2,225.00	0.00	2,225.00	
@	08/18 Qrtly Wood	Maint Comm Areas								
742		7333-0000	Repairs & Maint- Indirect	119966	8/23/2018	9/22/2018	2,225.00	0.00	2,225.00	
@	08/18 Qrtly Wood	Maint City Space								
<i>Check Total:</i>							4,450.00	0.00	4,450.00	
105097	9/21/2018	09/18	TSCMCO	TSCM CORPORATION						
742		5525-0000	Pkg Lot-Sweeping	9018099	9/1/2018	10/1/2018	221.00	0.00	221.00	
@	09/18 Sweeping Svc									
<i>Check Total:</i>							221.00	0.00	221.00	
<i>CITY OF LAGUNA HILLS Total:</i>							54,702.24	0.00	54,702.24	
<i>Grand Total:</i>							54,702.24	0.00	54,702.24	

Attachment: Check Register for July, August, and September 2018 (1733 : Civic Center First Quarter



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018
TO: Mayor and Council Members
FROM: Janice Reyes
Finance Director
ISSUE: First Quarter Financial & Treasurer's Report for Fiscal Year 2018/2019

RECOMMENDATION: That the City Council receive and file the First Quarter Financial and Treasurer's Report for Fiscal Year 2018/2019.

SUMMARY:

Attached to this report is the City of Laguna Hills Quarterly Financial Report for the First Quarter of Fiscal Year 2018/19. The information presented in the Quarterly Financial Report provides the City Council and City management with the results of the City's financial operations for the 2017/2018 Fiscal Year through September 30, 2018, on a cash basis for all governmental funds. At this time, there are no material deviations or significant variances to report. The total fund balance at the end of the first quarter for all governmental funds totaled \$7,501,050. The Quarterly Financial Report also contains a condensed Treasurer's Investment Report as of September 30, 2018, on Page 6. The City's total portfolio of \$7,924,953 at the end of the first quarter for all fund types is invested in authorized securities. The City's investment policy approved by City Council Resolution is the prevailing guideline in managing investments.

ATTACHMENTS:

- Quarterly Financial Report FY 2018/19 1st Quarter Ended 09/30/2018



CITY OF LAGUNA HILLS

Quarterly Financial Report

First Quarter FY 2018/19

The following unaudited financial information summarizes the City's overall financial activity for the current fiscal year through September 30, 2018. Financial analysis for this report is provided for the General Fund, Capital Improvement Program, Debt Service, and other City governmental funds, and is intended to provide the City Council and the public with a summary overview of the City's general fiscal condition through September 30, 2018.

A Summary of Funding Sources and Uses for the three months ended September 30, 2018, is presented in the table below. As of September 30, 2018, the City received roughly 5% of its revenue projection and 21% of its projected total funding uses.

Summary of Funding Sources & Uses For the 3 months ended September 30, 2018

	YTD Actual (million)	Budget (million)	YTD % of Budget
<i>Funding Sources</i>	\$ 1,496,046	\$ 23,897,627	5%
<i>Funding Uses</i>	5,303,204	22,912,998	21%
<i>Net Change</i>	(\$3,807,158)	\$ 984,629	

The Comparative Statement of Operations for Governmental Funds, on page 3, shows the detail of the year-to-date actual financial activity in relation to the Amended Budget. Year-to-date financial activity for all governmental funds through September 30, 2018, reports expenditures exceeding revenues by approximately \$3.8 million, which is typical of the governmental funds for the same period in previous fiscal years. As of September 30, 2018, the City received roughly \$1.5 million in total funding sources and spent roughly \$5.3 million in total funding uses.

Interpreting the information presented herein requires consideration of the cash flow fluctuations of revenues and expenditures. With 25% of the fiscal year complete, total funding sources for all governmental funds was 5% of budget and funding uses was at 21% of budget. Financial data is reported on a cash basis, meaning expenditures are reported when payments are made and revenues are reported when payment is received. There are a number of revenue and expenditures items that would show significant deviation if a straight-line comparison was applied. In a straight-line approach, one would expect line items to approximate 25% of budget by the end of the first quarter. However, the timing of many revenue and expenditure transactions do not occur at uniform times or at equal intervals over the course of the fiscal year. Consequently, although the first quarter represents 25% of the fiscal year, not all line items will be at 25% of the budget. Thus, the YTD as a percentage of budget shown in this report does not necessarily indicate material deviations or budget variances. With this perspective in mind, given anticipated payment schedules and past trends, there are no significant budget variances to report at this time.

Funding Sources

The City's total funding sources comprise of general fund revenues, special fund revenues, and other financing sources. At the end of the first quarter, total funding sources were approximately \$1.5 million, or 6% of budget.

GENERAL FUND REVENUES

General Fund Revenues are utilized primarily to finance the City's general governmental activities. At quarter end, general fund revenues totaled \$1,205,487 or 6% of budget. Receipts of Property Tax came in at \$186,578, or 2% of budget. Intergovernmental Revenues, which includes sales tax revenue, were \$498,409, or 9% of budget. The recording of these revenue sources comply with GASB 33 which addresses the timing of recognition of non-exchange transactions, e.g. taxes and fines. Revenues from non-exchange transactions, such as property and sales tax, received in the first two months of this fiscal year were accrued in the prior fiscal year. Franchise fees from utility companies and transient occupancy tax comprise Franchise Taxes, which came in at \$48,429, or 2% of budget. These receipts lagged at least a quarter and no accrual was made at quarter end. Revenues from Licenses & Permits totaled \$219,686, and Charges for Services, \$204,359, are dependent upon development activities and came in at 27% and 19% of budget, respectively. Fines and Forfeitures, which includes parking and vehicle fines, ended the quarter at 25% of budget, at \$48,026.

SPECIAL REVENUES AND GRANTS

Many of the Special Revenue funding sources are tied in with the City's Capital Improvement Plan. The receipts of funding sources for certain capital projects typically lag behind the spending on the projects, as the claims are applied for during construction or after project-completion. At the end of the first quarter, special revenues receipts totaled \$249,813, or 11% of budget.

OTHER FUNDING SOURCES

In accordance with GAAP, not all increases in governmental fund financial resources can be classified as revenue. Certain increases instead are reported as other financing sources, such as sales of general capital assets, proceeds of general long-term debt, and financial inflows from other funds.

Funding Uses

The City's total funding uses consist of the City's Operating Expenditures, outlay for Capital Improvement projects, debt charges and expenditures for grant related programs. At the end of the first quarter, total funding uses were approximately \$5.3 million, which was 23% of budget.

OPERATING EXPENDITURES

At the end of the first quarter, operating expenditures totaled roughly \$5 million, which represents 25% of the total operating budget. While total operating expenditures came in at 25% of budget, the spending level for Non-Departmental came in much higher, at 58% of its budget, due to annual insurance premiums paid in full at the onset of the fiscal year, as well as annual IT related maintenance contracts.

CAPITAL IMPROVEMENT PLAN (CIP)

CIP expenditures totaled \$32,505, or 10% of budget, at the end of the first quarter. All budgeted capital improvement projects automatically re-appropriate each fiscal year until the project is completed.

The following table lists the YTD expenditures for capital projects by type as of September 30, 2018.

Capital Improvement Program For the 3 Months Ended, September 30, 2018	
Streets, Signals & Lighting	\$ 58,000
Streetscape	29,600
Flood Control & Water Quality	2,300
Total \$	32,500

CITY OF LAGUNA HILLS
COMPARATIVE STATEMENT OF OPERATION - GOVERNMENTAL FUNDS
FOR THE 3 MONTHS ENDED, SEPTEMBER 30, 2018

	FY 2018/19			FY 2017/18		
	Y-T-D ACTUAL	AMENDED BUDGET	YTD % of BUDGET	Y-T-D ACTUAL	AMENDED BUDGET	YTD % of BUDGET
FUNDING SOURCES						
General Fund Revenues						
Property Taxes	\$ 186,578	\$ 10,916,716	2%	\$ 212,524	\$ 10,595,386	
Intergovernmental Revenues	498,409	5,578,000	9%	454,777	5,900,250	
Franchise Taxes	48,429	2,803,425	2%	46,662	2,713,239	
Licenses and Permits	219,686	800,000	27%	221,050	1,050,000	
Charges for Current Services	204,359	1,094,000	19%	214,474	1,091,842	
Fines & Forfeitures	48,026	190,000	25%	58,486	246,000	
Total General Fund Revenues	1,205,487	21,382,141	6%	1,207,973	21,596,717	
Special Revenue Funds						
Gas Tax (HUTA)	49,473	697,429	7%	60,213	920,868	
Measure M2 Fair Share	93,476	590,060	16%	94,241	570,658	
Measure M - Competitive		300,000	0%			
AB 2766 Fund		40,000	0%		40,000	
Quimby Act Fees					5,832,228	
Developer Traffic Impact Fees					830,567	
SB1 RMRA	50,281	527,571	10%			
Beverage Recycling Fund	-	8,300	0%			
CR&R Recycling Fees	2,000	2,000	100%	2,000	2,000	
C&D Forfeited Deposits	-	30,000	0%		40,000	
Senior Mobility Program	5,837	35,126	17%		33,984	
Public Art Fund					127,420	
Law Enforcement Grants	48,747	100,000	49%	54,793	100,000	
Total Special Revenue Funding	249,813	2,330,486	11%	211,247	8,497,725	
Other Funding Sources						
Interest Income	40,746	85,000	48%	22,972	-	
Distribution from Enterprise Fund	-	100,000	0%	-	50,000	
Total Other Funding Sources	40,746	185,000		22,972	50,000	
TOTAL FUNDING SOURCES	\$ 1,496,046	\$ 23,897,627	6%	\$ 1,442,191	\$ 30,144,442	
FUNDING USES						
Operating Expenditures						
General Government	\$ 427,275	2,400,264	18%	\$ 506,000	2,832,799	
Non-Departmental	668,383	1,085,875	62%	711,764	1,232,010	
Community Development	198,973	1,302,329	15%	228,878	1,446,568	
Public Services	1,093,498	4,400,954	25%	930,587	4,384,685	
Community Services	502,622	2,064,096	24%	493,906	2,130,520	
Police Services	2,081,910	8,411,971	25%	2,128,578	8,393,820	
Total Operating Expenditures	4,972,661	19,665,489	25%	4,999,713	20,420,402	
Capital Improvement Program	32,505	1,270,000	3%	29,109	2,333,298	
Other Funding Uses						
Debt Charges	170,441	1,790,881	10%	197,694	1,785,387	
Use of Reserves	114,911	50,000	230%	8,664	80,178	
Special Revenue Fund Expenditures						
Senior Mobility Program	4,526	44,000	10%	4,554	43,500	
Beverage Recycling		8,300	0%		34,707	
CR&R Recycling Fund		2,000	0%		2,000	
Forfeited C&D Deposits	8,161	82,328	10%	13,763	97,000	
Total Other Funding Uses	298,039	1,977,509	15%	224,674	2,042,772	
TOTAL FUNDING USES	\$ 5,303,204	\$ 22,912,998	23%	\$ 5,253,496	\$ 24,796,472	
NET CHANGE IN FUND BALANCE	\$ (3,807,158)	\$ 984,629		\$ (3,811,305)	\$ 5,347,970	

Attachment: Quarterly Financial Report FY 2018/19 1st Quarter Ended 09/30/2018 (1724 : First Quarter Financial & Treasurer's Report FY 2018-

CITY OF LAGUNA HILLS
ABRIDGED BALANCE SHEET - GOVERNMENTAL FUNDS (UNAUDITED)
SEPTEMBER 30, 2018

ASSETS

Cash and investments	\$ 7,674,644
Receivables:	
Accounts	160,619
Interest	35,622
Due from other governments	120,000
Prepaid items	43,356
Total assets	\$ 8,034,242

LIABILITIES AND FUND BALANCES

Liabilities:

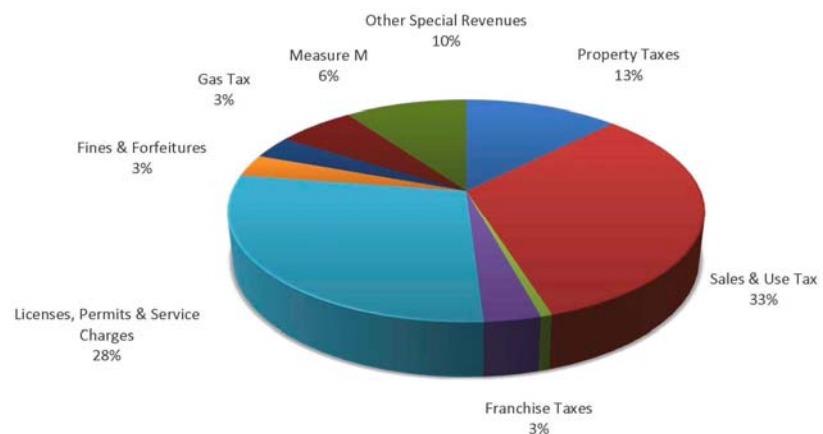
Accounts payable	\$ 54,333
Payroll and benefits	20,905
Refundable deposits to contractors	390,696
Deferred revenue	59,182
Trust accounts	8,075
Total liabilities	533,192

Fund balances:	7,501,050
----------------	-----------------

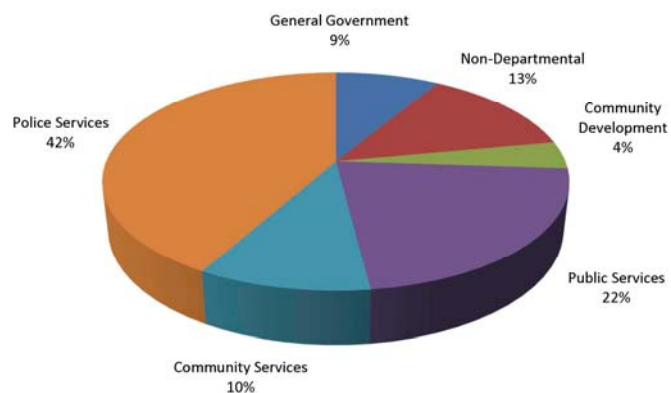
Total liabilities and fund balances **\$ 8,034,242**

REVENUES -

**General Fund &
Special Revenue Funds
FY 2018/19,
As of 09/30/18**



**OPERATING
EXPENDITURES
FY 2018/19,
As of 09/30/18**



Below is a snapshot of the City's fund balance as of September 30, 2018. At the end of the first quarter of the current fiscal year, the City's total fund balance for its governmental funds stood at \$7,501,050. Additionally, an abridged balance sheet, which summarizes the City's assets and liabilities, is included on page 4 and reconciles the fund balance at quarter end. City-managed short-term idle funds, as well as debt service funds, are invested in approved securities.

CITY OF LAGUNA HILLS

GOVERNMENTAL FUNDS

STATEMENT OF WORKING FUNDS (UNAUDITED) As of September 30, 2018

Fund Balance

General Fund	\$ 7,324,872
Gas Tax	72,438
AB 2766 Fund	179,110
CARITS	1,221,817
Water Conservation	331,841
Senior Mobility Program	69,842
Beverage Recycling	21,757
C&D Forfeited Deposits	82,400
Public Art Fund	79,069
Law Enforcement Special Revenue Funds	0
Grants & Contributions	84,778
Debt Service	1,836,415
Total Beginning Fund Balance, as of July 1, 2017	11,308,208
Net Change in Fund Balance, as of September 30, 2018	(3,807,158)
Total Fund Balance, as of September 30, 2018	\$ 7,501,050

Disposition of Working Funds

Total Cash and Demand Deposits	\$ 1,087,164
Total Investments	6,587,479
Total Cash and Investments	7,674,644
Receivables Net of Liabilities	(173,594)
Total Fund Balance, as of September 30, 2018	\$ 7,501,050

The Quarter End Financial Management Report for the First Quarter of Fiscal Year 2018-19 is hereby submitted. The accounts of the City are organized on the basis of funds, each of which is considered a separate accounting entity. To the best of our knowledge and belief, the above information is reported in a manner that presents fairly the financial position and results of operation of the Governmental Funds & Fiduciary Fund of the City of Laguna Hills as of September 30, 2018.

TREASURER'S INVESTMENT REPORT - ALL FUNDS (CONDENSED)
FOR THE 1ST QUARTER ENDED SEPTEMBER 30, 2018

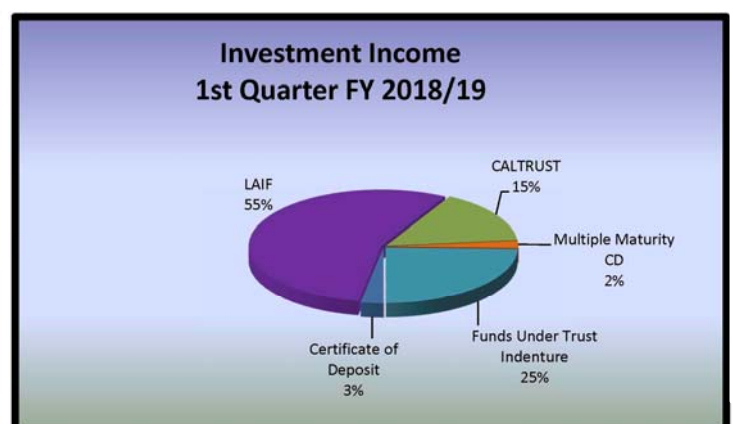
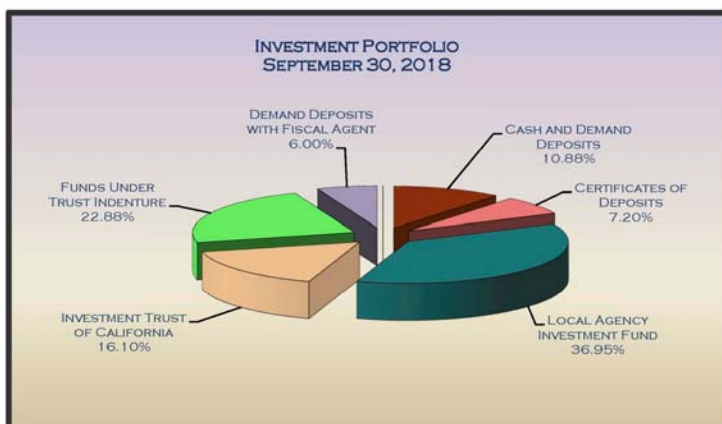
Cash and Investments by Type	Beginning Book Value	Deposits	Withdrawals	Ending Book Value	4th Quarter Interest Income
Cash on Hand	\$ 2,000	\$ -	\$ -	\$ 2,000	\$ -
Demand Deposits	195,899	7,336,400	6,672,310	859,989	-
Certificates of Deposits	500,000	-	-	500,000	1,119
Multiple Maturity Certificates of Deposits	70,502	-	-	70,502	869
State Treasurer's Investment Fund (LAIF)	5,806,100	22,180	2,900,000	2,928,280	22,529
Investment Trust of CA (CalTRUST)	1,269,454	6,243	-	1,275,697	6,243
Debt Service Funds Under Trust Indenture	1,827,746	200,996	215,392	1,813,350	9,891
Demand Deposits with Custodial Agent	338,529	596,230	459,624	475,134	16
TOTAL	\$ 10,010,229	\$ 8,162,050	\$ 10,247,326	\$ 7,924,953	\$ 40,667

The City's investment policy approved by Council resolution is the prevailing guideline in managing investments. Short-term excess cash is currently invested primarily in the State Treasurer's Local Agency Investment Fund (LAIF) and the Investment Trust of California (CalTRUST), a Public Joint Powers Authority (JPA). Restricted investments held under trust indenture by The Bank of New York Mellon Trust Company, N.A, is a Reserve Fund, deposited with LAIF, established to secure the timely payment of principal and interest represented by the 2010 Refinancing Project bond issues.

The following is the summary of the cash and investments for the 1st quarter ended September 30, 2018, compared with the same period of the previous fiscal year:

	June 30, 2018	June 30, 2017
Cash on hand	\$ 3,000	\$ 2,000
Pooled Deposits:		
Demand Deposits	1,334,123	952,577
Certificates of Deposits	570,502	570,502
Total Pooled Deposits	1,904,626	1,523,079
Pooled Investments:		
Local Agency Investment Fund	2,928,280	3,019,324
Investment Trust of California	1,275,697	1,256,635
Restricted Cash and Investments:		
Local Agency Investment Fund	1,813,000	1,809,755
Demand Deposits	350	3,876
Total Cash and Investments	\$ 7,924,953	\$ 7,614,669

We believe the City's portfolio provides sufficient cash flow liquidity to meet the next six months of the City's projected operating expenditures.





City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018
TO: Mayor and Council Members
FROM: Janice Reyes
Finance Director
ISSUE: M2 Expenditure Report for the Fiscal Year Ended June 30, 2018

RECOMMENDATION: That the City Council: (1) Approve the M2 Expenditure Report for the Fiscal Year ended June 30, 2018, for submittal to OCTA; and (2) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, concerning the Measure M2 Expenditure Report for the City of Laguna Hills for the Fiscal Year ended June 30, 2018."

SUMMARY:

With the passage of Renewed Measure M (M2), local agencies must demonstrate eligibility and follow safeguard requirements in order for local jurisdictions to receive M2 fair share and competitive program funds. The Orange County Transportation Authority's (OCTA) Ordinance No. 3 (M2 Ordinance) identifies the eligibility and safeguard requirements that must be met. One requirement under the M2 Ordinance is that each local agency must adopt and provide an expenditure report (in the form provided by OCTA) to OCTA each year within six months of the end of the local jurisdiction's fiscal year to account for M2 funds. The City Council is requested to review and approve the attached Measure M2 Expenditure Report for the fiscal year ended June 30, 2018, and adopt the attached Resolution for submittal to OCTA, as required by Measure M2 Local Transportation Authority Ordinance No. 3.

BACKGROUND:

On November 7, 2006, the Orange County voters approved the renewal of the Measure M one-half cent sales tax for transportation improvements. This renewal plan

M2 Expenditure Report FY 2017-18

November 27, 2018

Page 2

is designated as Measure M2 and provides funding for 30 years to relieve traffic congestion. As part of Measure M2, taxpayer safeguards and audits are provided to ensure appropriate use of funds.

One new safeguard requirement under the M2 Ordinance is for each local agency to adopt and provide an annual expenditure report to OCTA each year in the template form provided by OCTA. This expenditure report is a detailed financial report used to track financial activity to account for M2 funds, developer/traffic impact fees, and funds expended by the jurisdiction to satisfy Maintenance of Effort (MOE) requirements. The report includes all M2 net revenue, fund balances and interest earned, and will identify expenditure by activity type and funding source.

The report is required six months after each jurisdiction's fiscal year end and must be adopted by Resolution before submittal to OCTA. The attached M2 Expenditure Report demonstrates the City is in compliance with the requirements of M2.

FISCAL IMPACT:

Historically, Measure M provides approximately \$500,000 of annual revenues to the City for street maintenance purposes. Failure to submit the M2 Annual Expenditure Report could suspend or delay M2 funding.

ATTACHMENTS:

- Proposed Resolution - M2 Expenditure Report FY 2017-18
- M2 Expenditure Report FY 2017-18

RESOLUTION NO. 2018-11-27-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, CONCERNING THE MEASURE M2 EXPENDITURE REPORT FOR THE CITY OF LAGUNA HILLS FOR FISCAL YEAR ENDED JUNE 30, 2018

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, Local Transportation Authority Ordinance No. 3 requires local jurisdictions to adopt an annual Expenditure Report to account for Net Revenues, developer/traffic impact fees, and funds expended by local jurisdiction that satisfy the Maintenance of Effort requirements; and

WHEREAS, the Expenditure Report shall include all Net Revenue fund balances, interest earned and expenditures identified by type and program or project; and

WHEREAS, the Expenditure Report must be adopted and submitted to the Orange County Transportation Authority each year within six months of the end of the local jurisdiction's fiscal year to be eligible to receive Net Revenues as part of Measure M2.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY INFORM OCTA THAT:

- A. The M2 Expenditure Report is in conformance with the M2 Expenditure Report Template provided in the Renewed Measure M Eligibility Guidelines and accounts for Net Revenues including interest earned, expenditures during the fiscal year and balances at the end of fiscal year.
- B. The M2 Expenditure Report is hereby adopted by the City of Laguna Hills.
- C. The City of Laguna Hills' Finance Director is hereby authorized to sign and submit the Measure M2 Expenditure Report to OCTA for the fiscal year ending June 30, 2018.

PASSED, APPROVED, AND ADOPTED this 27th day of November 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2018-11-27-x adopted by the City Council of the City of Laguna Hills, California, at a
Regular Meeting thereof held on the 27th day of November 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Attachment: Proposed Resolution - M2 Expenditure Report FY 2017-18 (1722 : M2 Expenditure Report FY 2017-18)

M2 Expenditure Report
Fiscal Year Ended June 30, 2018
Beginning and Ending Balances

Description	Line No.	Amount	Interest
Balances at Beginning of Fiscal Year			
A-M Freeway Environmental Mitigation	1	\$ -	\$ -
O Regional Capacity Program (RCP)	2	\$ -	\$ -
P Regional Traffic Signal Synchronization Program (RTSSP)	3	\$ -	\$ -
Q Local Fair Share	4	\$ -	\$ -
R High Frequency Metrolink Service	5	\$ -	\$ -
S Transit Extensions to Metrolink	6	\$ -	\$ -
T Convert Metrolink Station(s) to Regional Gateways that connect Orange County with High-Speed Rail Systems	7	\$ -	\$ -
U Senior Mobility Program or Senior Non-Emergency Medical Program	8	\$ 51,840	\$ -
V Community Based Transit/Circulators	9	\$ -	\$ -
W Safe Transit Stops	10	\$ -	\$ -
X Environmental Cleanup Program (Water Quality)	11	\$ -	\$ -
Other*	12	\$ 14,990	\$ -
Balances at Beginning of Fiscal Year	13	\$ 66,830	\$ -
Monies Made Available During Fiscal Year	14	\$ 729,768	\$ 4,751
Total Monies Available (Sum Lines 13 & 14)	15	\$ 796,598	\$ 4,751
Expenditures During Fiscal Year	16	\$ 726,756	\$ 4,751
Balances at End of Fiscal Year			
A-M Freeway Environmental Mitigation	17	\$ -	\$ -
O Regional Capacity Program (RCP)	18	\$ -	\$ -
P Regional Traffic Signal Synchronization Program (RTSSP)	19	\$ -	\$ -
Q Local Fair Share	20	\$ -	\$ -
R High Frequency Metrolink Service	21	\$ -	\$ -
S Transit Extensions to Metrolink	22	\$ -	\$ -
T Convert Metrolink Station(s) to Regional Gateways that connect Orange County with High-Speed Rail Systems	23	\$ -	\$ -
U Senior Mobility Program or Senior Non-Emergency Medical Program	24	\$ 54,852	\$ -
V Community Based Transit/Circulators	25	\$ -	\$ -
W Safe Transit Stops	26	\$ -	\$ -
X Environmental Cleanup Program (Water Quality)	27	\$ -	\$ -
Other*	28	\$ 14,990	\$ -

*TDA Backfill

Attachment: M2 Expenditure Report FY 2017-18 (1722 : M2 Expenditure Report FY 2017-18)

M2 Expenditure Report
Fiscal Year Ended June 30, 2018
Sources and Uses

Description		Line No.	Amount	Interest
Revenues:				
A-M	Freeway Environmental Mitigation	1	\$ -	\$ -
O	Regional Capacity Program (RCP)	2	\$ -	\$ -
P	Regional Traffic Signal Synchronization Program (RTSSP)	3	\$ -	\$ -
Q	Local Fair Share	4	\$ 572,304	\$ 3,946
R	High Frequency Metrolink Service	5	\$ -	\$ -
S	Transit Extensions to Metrolink	6	\$ -	\$ -
T	Convert Metrolink Station(s) to Regional Gateways that connect Orange County with High-Speed Rail Systems	7	\$ -	\$ -
U	Senior Mobility Program or Senior Non-Emergency Medical Program	8	\$ 35,698	\$ 805
V	Community Based Transit/Circulators	9	\$ -	\$ -
W	Safe Transit Stops	10	\$ -	\$ -
X	Environmental Cleanup Program (Water Quality)*	11	\$ 121,766	\$ -
	Other	12	\$ -	\$ -
TOTAL REVENUES (Sum lines 1 to 12)		13	\$ 729,768	\$ 4,751
Expenditures:				
A-M	Freeway Environmental Mitigation	14	\$ -	\$ -
O	Regional Capacity Program (RCP)	15	\$ -	\$ -
P	Regional Traffic Signal Synchronization Program (RTSSP)	16	\$ -	\$ -
Q	Local Fair Share	17	\$ 572,304	\$ 3,946
R	High Frequency Metrolink Service	18	\$ -	\$ -
S	Transit Extensions to Metrolink	19	\$ -	\$ -
T	Convert Metrolink Station(s) to Regional Gateways that connect Orange County with High-Speed Rail Systems	20	\$ -	\$ -
U	Senior Mobility Program or Senior Non-Emergency Medical Program	21	\$ 32,686	\$ 805
V	Community Based Transit/Circulators	22	\$ -	\$ -
W	Safe Transit Stops	23	\$ -	\$ -
X	Environmental Cleanup Program (Water Quality)*	24	\$ 121,766	\$ -
	Other	25	\$ -	\$ -
TOTAL EXPENDITURES (Sum lines 14 to 25)		26	\$ 726,756	\$ 4,751
TOTAL BALANCE (Subtract line 26 from 13)		27	\$ 3,012	\$ -

* Includes (1) accrual of \$120,000 for Project No. 17-LHLL-ECP-3885 and (2) \$1,766 for Project No. C-14-LHLL-ECP that was partially accrued in prior FY 16/17 for \$43,483.

Attachment: M2 Expenditure Report FY 2017-18 (1722 : M2 Expenditure Report FY 2017-18)

M2 Expenditure Report
Fiscal Year Ended June 30, 2018
Streets and Roads Detailed Use of Funds

Type of Expenditure	Line No.	MOE ²	+Developer / Impact Fees	O	O Interest	P	P Interest	Q	Q Interest	X	X Interest	Other M2 ³	Other M2 Interest	Other*	TOTAL
Indirect and/or Overhead	1	309,495	-	-	-	-	-	-	-	-	-	32,686	805	-	342,986
Construction & Right-of-Way															
New Street Construction	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Street Reconstruction	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Signals, Safety Devices, & Street Lights	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Pedestrian Ways & Bikepaths	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Storm Drains	6	158,944	-	-	-	-	-	-	-	121,766	-	-	-	-	280,710
Storm Damage	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Construction¹	8	158,944	-	-	-	-	-	-	-	121,766	-	-	-	-	280,710
Right of Way Acquisition	9	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Construction & Right-of-Way	10	158,944	-	-	-	-	-	-	-	121,766	-	-	-	-	280,710
Maintenance															
Patching	11	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Overlay & Sealing	12	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Street Lights & Traffic Signals	13	597,498	-	-	-	-	-	-	-	-	-	-	-	-	597,498
Storm Damage	14	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Street Purpose Maintenance	15	125,726	-	-	-	-	-	572,304	3,946	-	-	-	-	-	701,976
Total Maintenance¹	16	723,224	-	-	-	-	-	572,304	3,946	-	-	-	-	-	1,299,474
Other	17	12,354	-	-	-	-	-	-	-	-	-	-	-	-	12,354
GRAND TOTALS (Sum Lines 1, 10, 16, 17)	18	1,204,017	-	-	-	-	-	572,304	3,946	121,766	-	32,686	805	-	1,935,524

¹ Includes direct charges for staff time² Local funds used to satisfy maintenance of effort (MOE) requirements³ Other M2 includes A-M, R,S,T,U,V, and W

+ Transportation related only

* Please provide a specific description

Legend

Project	Description
A-M	Freeway Environmental Mitigation
O	Regional Capacity Program (RCP)
P	Regional Traffic Signal Synchronization Program (RTSSP)
Q	Local Fair Share
R	High Frequency Metrolink Service
S	Transit Extensions to Metrolink
T	Convert Metrolink Station(s) to Regional Gateways that connect Orange County with High-Speed Rail Systems
U	Senior Mobility Program or Senior Non-Emergency Medical Program
V	Community Based Transit/Circulators
W	Safe Transit Stops
X	Environmental Cleanup Program (Water Quality)

Attachment: M2 Expenditure Report FY 2017-18 (1722 : M2 Expenditure Report FY 2017-18)

M2 Expenditure Report
Fiscal Year Ended June 30, 2018

I certify that the interest earned on Net Revenues allocated pursuant to the Ordinance shall be expended only for those purposes for which the Net Revenues were allocated and all the information attached herein is true and accurate to the best of my knowledge:

Janice Mateo Reyes

Director of Finance (Print Name)

11/05/2018

Date


Signature

Attachment: M2 Expenditure Report FY 2017-18 (1722 : M2 Expenditure Report FY 2017-18)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018
TO: Mayor and Council Members
FROM: Janice Reyes
Finance Director
ISSUE: Annual Review of Investment & Portfolio Policies and Delegation of Investment Authority to the City Treasurer

RECOMMENDATION: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, delegating investment authority to the City Treasurer and approving a policy for the investment of surplus City funds and rescinding Resolution No. 2017-12-13-7."

SUMMARY:

State law requires that the City Council annually review the City's written investment policies at a public meeting. It also allows the City Council to delegate its investment authority to the City Treasurer for up to one year at a time. A Resolution to adopt the proposed policies and delegate the investment authority to the City Treasurer for the year 2019 is attached and staff is recommending approval.

BACKGROUND:

Pursuant to Government Code Section 53646, the City Treasurer is required to render to the City Council an annual statement of investment policy. Staff has reviewed the investment and portfolio policies, which are more restrictive than State law and consistent with the recommended best practices promulgated by the Government Finance Officers Association. Staff is recommending the following changes to the existing policies:

1. Update to Section IV, Item 3 “Delegation of Authority”

Management responsibility is delegated to the Assistant City Manager/Deputy Treasurer under the current policy. The proposed update to the policy is the delegation of the management responsibility to the Finance Director, as Deputy Treasurer, under the supervision of the City Treasurer.

2. Addition of "Appendix A - Glossary of Terms"

The current policy does not contain a glossary of terms. Since this policy is to be available to the public, it is fitting that a glossary of relevant terminology be part of the policy document.

The proposed “2019 Investment and Portfolio Policies” for the City and the Public Improvement Corporation are contained in Exhibit A of the attached Resolution.

ATTACHMENTS:

- Proposed Resolution - Investment Policy 2019
- Exhibit A - Proposed 2019 Investment Policy

RESOLUTION NO. 2018-11-27-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DELEGATING INVESTMENT AUTHORITY TO THE CITY TREASURER AND APPROVING A POLICY FOR THE INVESTMENT OF SURPLUS CITY FUNDS AND RESCINDING RESOLUTION NO. 2017-12-13-7

WHEREAS, pursuant to Laguna Hills Municipal Code Section 2-16.020, the City Council has appointed the City Manager as the City Treasurer; and

WHEREAS, pursuant to Government Code Section 53607, the City Council may delegate its investment authority to the City Treasurer for up to one year; and

WHEREAS; pursuant to Government Code Section 53646, the City Council of the City of Laguna Hills, has publicly considered an annual statement of investment policy and desires to adopt such policy to guide the investment management of the Deputy Treasurer under the supervision of the City Treasurer.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

- SECTION 1. This Resolution rescinds Resolution No 2017-12-13-7.
- SECTION 2. The City Council hereby delegates investment authority to the City Treasurer.
- SECTION 3. The City Council hereby adopts the investment policy, attached hereto as Exhibit "A" and incorporated herein by this reference.
- SECTION 4. The effective date of this Resolution is January 1, 2019.

PASSED, APPROVED, AND ADOPTED this 27th day of November 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2018-
11-27-X adopted by the City Council of the City of Laguna Hills, California, at a Regular
Meeting thereof held on the 27th day of November, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Attachment: Proposed Resolution - Investment Policy 2019 (1723 : 2019 Investment Policy)



CITY OF LAGUNA HILLS

2019 INVESTMENT & PORTFOLIO POLICIES



Investment and Portfolio Policies

Calendar Year 2019

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**CITY OF LAGUNA HILLS
INVESTMENT AND PORTFOLIO POLICIES
2019**

I Policy

It is the Policy of the City of Laguna Hills to invest in a manner, which will ensure the safety of public funds by mitigating credit and interest rate risk, and provide sufficient liquidity to meet all operating requirements. The City shall also strive to attain a return on investment that is reasonable given that safety of principal and liquidity are the primary objectives in these policies and yield is secondary. The investment program shall be operated in conformity with federal, state and other legal requirements, including the State of California Government Code Section 53601, et, seq., these policies and written administrative procedures.

II Scope

This investment policy applies to the investment of all funds of the City and the City of Laguna Hills Public Improvement Corporation, including the following:

General Fund
Special Revenue Funds
Capital Projects Funds
Funds Held Under Trust Indenture

These funds are accounted for in the City's Comprehensive Annual Financial Report.

Except for cash in certain restricted and special funds, the City will consolidate cash and reserve balances from all funds to maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping and administration. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

Investments under the trust indenture will be held separately and made in accordance with the indenture requirements.

III Objectives

Funds of the City will be invested, by the City Treasurer, or authorized deputies of the Treasurer (hereinafter collectively referred to as "the Treasurer") in accordance with these policies and written administrative procedures. The primary objectives, in priority order, of investment activities shall be:

1) Safety

Safety of principal is the foremost objective of the City's investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio and the mitigation of credit risk and interest rate risk.

a) Credit Risk

Credit Risk is the risk of loss due to the failure of the security issuer or backer. Credit Risk may be mitigated by:

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- i. limiting investments to the safest types of securities listed under Section VI herein, which shall be limited to those investments backed by the U.S. Government, or an agency thereof, overnight accounts managed by the City's primary bank, the Local Agency Investment Fund (LAIF), and other specific investments described in Section VI;
- ii. diversifying the portfolio to avoid concentration of securities from a specific issuer, except issuers of U.S. Treasury securities, so that the failure of any one issuer will not place an undue financial burden on the City;
- iii. monitoring all of the City's investments on a frequent basis to anticipate and respond accordingly to a significant reduction of creditworthiness of any of the depositories, including the City's primary bank; and
- iv. performing appropriate due diligence to assure the credit worthiness of any portfolio investment made.

b) Interest Rate Risk

Interest rate risk is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates. To reduce interest rate risk, the City shall limit the maximum maturity horizon of the securities that comprise its portfolio, keeping in mind that the longer the maturity horizon, the greater the price volatility. In accordance with the Government Accounting Standards Board reporting requirements, the portfolio could show unrealized gains or losses for any reporting period.

Interest rate risk may be mitigated by:

- i. structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity; and
- ii. investing operating funds primarily in shorter-term securities.

2) Liquidity

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets (dynamic liquidity) and a portion of the portfolio should be invested in readily available funds, to ensure that appropriate liquidity is maintained to meet ongoing obligations.

3) Yield

The rate of return on the City's investment portfolio is of secondary importance to the safety and liquidity objectives described above. The City's investment strategy is passive and investments are limited to relatively low-risk securities in anticipation of earning a rate of return throughout

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budgetary and economic cycles, commensurate with the City's investment risk constraints and the cash flow characteristics of the portfolio.

The yield shall be designed to attain an average rate of return through market cycles. Although no "benchmark" rate of return is assumed, the portfolio's yield shall be compared for reporting purposes to LAIF and the 3-month bank CD rate published by the Federal Reserve. These indices are considered benchmarks for lower risk investment transactions and therefore represent a comparable minimum standard for the portfolio's rate of return.

IV Standards of Care

1) Prudence

The City's investment portfolio is subject to public scrutiny and review and should be managed with due care and consideration. The portfolio should be created and maintained with the professionalism and care worthy of the public trust.

The standard of prudence to be applied to the Treasurer shall be the "prudent investor rule", which states, "when investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds, a trustee (the governing body or Treasurer) shall act with care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person, acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency."

The Treasurer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported immediately and that appropriate action is taken to control adverse developments.

2) Ethics and Conflict of Interest

Employees of the City shall refrain from personal business activity that could conflict with the proper execution of the investment program, or which could impair their ability to make impartial investment decisions. State law, City statutes, and City personnel and purchasing practices shall be followed to avoid conflict of interest or the appearance thereof. Employees shall disclose any financial interests or personal relationships with any financial institutions, brokers or securities dealers that conduct business within its jurisdiction, and any personal financial/investment positions that could be related to their management of the portfolio. The Treasurer shall be prohibited from doing business with any broker or securities dealer with whom the City does business, with the exception of the City's primary bank for banking services. Employees shall subordinate their personal investment transactions to those of the City, particularly with regard to the time of purchases and sales.

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3) Delegation of Authority

Authority to manage the City's investment program is delegated to the City Treasurer by Resolution of the City Council of the City of Laguna Hills, California. Management responsibility is hereby delegated to the Finance Director/Deputy Treasurer under the direction of the City Treasurer.

The Deputy Treasurer shall establish written procedures for the operation of the investment program consistent with this investment policy, together with a system of internal controls to regulate the activities of subordinates.

V Safekeeping and Custody

1) Authorized Financial Institutions, Depositories and Brokers/Dealers

Investment transactions will be undertaken with securities dealers, brokers and depositories authorized to provide investment services. In addition, the City shall maintain a "Qualified Institution" list of approved security broker/dealers selected by creditworthiness, including the minimum capital requirement of \$10 million and at least five years of operation. The City shall conduct periodic evaluations, or whenever deemed necessary, of each financial institution's standing to determine whether it should remain on the "Qualified Institution" listing. Securities dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule).

All financial institutions and brokers/dealers who desire to become qualified for investment transactions with the City must supply the following:

- 1) Audited financial statements demonstrating compliance with State and Federal capital adequacy guidelines. Audited financial statements will be submitted annually to the City.
- 2) Proof of National Association of Securities Dealers (NASD) certification, except for counterparties in Certificates of Deposits transactions.
- 3) Proof of State Registration
- 4) Completed broker/dealer questionnaire, except for Certificates of Deposits counterparties.
- 5) Certification of having read and understood and agreeing to comply with the City's Investment Policies, as well as to disclose potential conflicts or risks to public funds that might arise out of business transactions between the firm/depository and the City.
- 6) Evidence of adequate insurance coverage.

In addition, all financial institutions shall agree to undertake reasonable efforts to preclude imprudent transactions involving the City's funds. The supervising officer shall agree to exercise due diligence in monitoring the activities of other officers and subordinate staff members engaged in transactions with the City. Employees of any firm or financial institution offering securities or

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investments to the City shall be trained in the precautions appropriate to public-sector investment and shall be required to familiarize themselves with the City's Investment and Portfolio Policies.

2) Internal Control

Treasurer shall establish a system of written internal control policies and procedures, which shall be reviewed annually by the independent auditor. The controls shall be designed to prevent loss of public funds due to fraud, error, misrepresentation, unanticipated market changes or imprudent actions.

3) Delivery vs. Payment

All trades where applicable will be executed by delivery vs. payment (DVP). This ensures that securities are deposited in the eligible financial institution prior to the release of funds. A third party custodian or the trust department of the City's primary bank will hold securities. Evidence of safekeeping shall be in the form of safekeeping receipts and monthly statements reporting the securities held by the institution.

VI Authorized and Suitable Investments

1) Investment Types

Investment of City funds are restricted to the following instruments that shall mature within one year from the time of purchase unless otherwise stated:

- a) U.S. Treasury bills.
- b) U.S. Treasury notes or bonds.
- c) Insured or fully collateralized certificates of deposit issued by a qualified Public Depository Institution of the State of California.
- d) Money market mutual funds whose portfolios consist entirely of U.S. government securities and are rated at the highest letter or numerical rating from at least two of the three largest nationally recognized rating services, or which retain an Investment advisor meeting requirements specified in Government Code Section 53601(k)(2).
- e) State Treasurer's Local Agency Investment Fund.
- f) Overnight Government Securities (U.S. Treasuries, Agencies, and Instrumentalities) Investment Account managed by the City's primary bank.
- g) Overnight Commercial Paper Investment Account managed by the City's primary bank.
- h) Overnight repurchase agreements managed by the City's primary bank where the market value of the securities underlying the repurchase agreement is 102 percent or greater than the value of funds borrowed.
- i) Commercial Paper rated a minimum of "P-1" by Moody's and "A-1" by Standard and Poor's, or equivalent, as provided by a nationally recognized rating agency, maturing not more than 180 days after the date of purchase. The issuer is a corporation organized and operating in the United States with assets in excess of \$500 million.

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- j) Prime Bankers' Acceptances with a maximum term of 270 days and a rating of "P-a" by Moody's and "A-1 +" by Standard and Poor's or equivalent as provided by a nationally recognized rating agency issued within the U.S. by depository institutions.
- k) Investment Trust of California, a Joint Powers Authority, doing business as CalTRUST

In all instances, the City will not purchase the aforementioned instruments by the use of leveraged or margin accounts or by taking short positions in any investment instrument; i.e., selling investments the City does not own.

Investments of funds held under a trust indenture may have maturities up to two years in duration.

2) Portfolio Diversification

The City will diversify use of investment instruments to avoid incurring unreasonable risks inherent in over investing in specific instruments, individual financial institutions or maturities.

<u>DIVERSIFICATION BY INVESTMENTS</u>	<u>Maximum Percent of Portfolio</u>
U.S. Treasury Obligations (bills, notes and bonds)	50%
Certificates of Deposit (CDs) Commercial Banks	50%
Certificates of Deposit (CDs) Savings and Loan	25%
State Treasurer's Local Agency Investment Fund	75%
CalTRUST	75%
Overnight investment accounts managed by City's primary bank	50%
Commercial Paper	10%
Banker's Acceptances	15%
Money Market Mutual Funds	15%
<u>DIVERSIFICATION BY INSTITUTION/ISSUER</u>	<u>Maximum Percent of Portfolio</u>
Certificates of Deposit (CDs) Commercial Banks	25%
Certificates of Deposit (CDs) Savings and Loan	\$250,000 maximum

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3) Maximum Maturities

Investment maturities for operating funds shall be scheduled to coincide with projected cash flow needs, taking into account large routine expenditures as well as considering sizable blocks of anticipated revenue.

4) Collateralization

Collateralization will be required on repurchase agreements in order to anticipate market changes and provide a level of security for all funds.

For certificates of deposits greater than \$250,000, collateral will be required at 110% of principal for government securities collateral, and 150% of principal for first mortgage collateral. Certificates of deposits for \$250,000 or less, inclusive of earned interest at maturity may be invested in any FDIC insured commercial bank or savings and loan accounts.

Collateral will always be held by an independent third party, or the trust departments of the City's primary bank. A clearly marked evidence of ownership, such as safekeeping receipt and monthly statement of securities held must be provided to the City.

VII Competitive Selection of Investment Instruments

When purchasing or selling securities, the Treasurer shall select the security which provides the highest rate of return within the parameters of these policies and according to the current objectives and needs of the City's portfolio. The Treasurer, at his discretion, may purchase investments through the investment or trust department of the City's primary bank without soliciting proposal forms to other banks or broker/dealers. The City Treasurer may also purchase investments using a competitive process by soliciting proposals from the financial dealers in the "Qualified Institutions" list.

If a specific maturity date is required, either for cash flow purposes or for conformance to maturity guidelines, bids will be requested for instruments, which meet the maturity requirement. If no specific maturity is required, a market trend (yield curve) analysis will be conducted to determine which maturities would be most advantageous. Selection by comparison to a current market price may be utilized when, in the judgment of the Treasurer, competitive bidding would inhibit the selection process.

VIII Reporting

The Treasurer shall submit quarterly investment reports to the City Council that summarizes recent market conditions, economic developments and anticipated investment conditions. The report shall summarize the investment strategies employed in the most recent quarter and describe the portfolio in terms of investment securities, maturities, risk characteristics and other pertinent features. The report shall explain the quarter's total investment return and compare the return on LAIF and the 3-month bank CD rate published by the Federal Reserve. The report shall disclose all transactions during the quarter.

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As part of the City's annual audit, the independent auditor shall evaluate investment performance and conduct an operations audit. The purpose of these examinations shall be to obtain suggestions for improved future performance, and to verify that the Treasurer has acted in accordance with this investment policy and written investment procedures.

IX Annual Investment Policy and Adoption

The City's investment policy shall be annually reviewed and adopted by resolution of the City Council of the City of Laguna Hills, California. The policy and the related internal control procedures shall be reviewed annually by the City's independent auditors, and any modifications to the policy must be approved by the City Council.

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Appendix A – Glossary of Terms

ACCRUED INTEREST: Interest earned but not yet received.

ACTIVE DEPOSIT: Funds which are immediately required for disbursement.

AGENCIES: Federal agency securities and/or government-sponsored enterprises.

AMORTIZATION: An accounting practice of gradually decrease/increasing an asset's book value by spreading its depreciation/accretion over a period of time.

ASKED PRICE: The price at which securities are offered.

BANKERS' ACCEPTANCE: a draft or bill exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

BASIS POINT: One one-hundredth of one percent (.01%)

BEAR MARKET: A period of generally pessimistic attitudes and declining market prices.

BENCHMARK: A comparative base for measuring the performance or risk tolerance of the investment portfolio. A benchmark should represent a close correlation to the level of risk and average duration of the portfolio's investments.

BID PRICE: The price offered by a buyer of securities. (When you are selling securities, you ask for a bid). See Offer Price and Asked Price.

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

BOND EQUIVALENT YIELD: The basis on which yields on notes and bonds are quoted.

BOOK VALUE (COST VALUE): The purchase price at which a debt security is shown on the holder's balance sheet. Book value is the purchase price less amortization of premium or plus accretion of discount.

BROKER: An individual or firm that brings buyers and sellers together for commission.

BULL MARKET: A period of time of generally optimistic attitudes and increasing market prices.

CALLABLES: Securities that the issuer has the right to redeem prior to maturity.

CERTIFICATE OF DEPOSIT (CD): A time deposit with a specific maturity evidenced by a certificate. Large denomination CD's are typically negotiable. CD's may be eligible for FDIC insurance.

COLLATERAL: Securities, evidence of deposit, or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR): The official annual report of the City. It is the set of financial statements for a state, municipality or other governmental entity that comply with the accounting

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requirements established by the Governmental Accounting Standards Board (GASB). It includes combined statements prepared in conformity with Generally Accepted Accounting Principles (GAAP). It also includes supporting schedules necessary to demonstrate compliance with finance-related legal and contractual provisions, extensive introductory material, and a detailed Statistical Section.

CONSTANT MATURITY TREASURY (CMT): An average yield of a specific Treasury maturity sector for a specific time frame. This is a market index for reference of past direction of interest rates for a given Treasury maturity range.

COST VALUE (BOOK VALUE): The purchase price at which a debt security is shown on the holder's balance sheet.

COUPON: a) The annual rate of interest that a bond's issuer promises to pay the bondholder on a bond's face value; b) a certificate attached to a bond evidencing interest due on a payment date.

CREDIT ANALYSIS: A critical review and appraisal of the economic and financial conditions or of the ability to meet debt obligations.

CURRENT YIELD: The interest paid on an investment expressed as a percentage of the current price of the security.

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

DEALER: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

DEBENTURE: A bond secured only by the general credit of the issuer.

DELIVERY VERSUS PAYMENT: There are two methods of delivery of securities: delivery versus payment and delivery versus receipt. Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

DEMAND DEPOSIT ACCOUNT: Accounts whose balance is available to meet immediate cash needs. Cash withdrawals can be made at any time.

DERIVATIVES: (1) Financial instruments whose return profile is linked to, or derived from, the movement of one or more underlying index(s) or security(s), and may include a leveraging factor, or (2) financial contracts based upon notional amounts whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities or commodities). Moreover, financial products that are dependent for their value on an underlying financial instrument, a commodity, or an index representing values of groups of such instruments or assets.

DISCOUNT: The difference between the cost price of a security and its maturity when quoted at a lower than face value. A security selling below original offering price shortly after sale is also considered to be at a discount.

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

DIVERSIFICATION: Dividing investment funds among a variety of securities offering independent returns.

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

FANNIE MAE: Trade name for the Federal National Mortgage Association (FNMA). See FNMA.

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

FEDERAL CREDIT AGENCIES: Agencies of the Federal Government set up to supply credit to various classes of institutions and individuals, e.g., Savings and Loans, small business firms, students, farm cooperatives, and exporters.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC): A federal agency that insures bank deposits, currently up to \$250,000 per entity; Insurance provided to customers of a subscribing bank, which guarantees deposits to a set limit.

FEDERAL FUNDS RATE: The rate of interest at which Federal funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

FEDERAL HOME LOAN BANKS (FHLB): Government sponsored wholesale banks, which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions and insurance companies. The mission of the FHLBs is to liquefy the housing related assets of its members who must purchase stock in their district bank.

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

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

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

FEDERAL RESERVE SYSTEM: The central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., 12 regional banks and about 5,700 commercial banks that are members of the system.

FINANCIAL ADVISOR: A firm of bank that acts in a financial advisory capacity with respect to a new issue of municipal securities pursuant to a written contract.

FISCAL AGENT/SPONSOR: a) A fiscal agent, fiscal sponsor, or financial agent is a proxy that manages fiscal matters on behalf of another party. b) A financial institution with trust powers which acts in a fiduciary capacity for the benefit of the bondholders in enforcing the terms of the bond contract. A fiscal agent may assist in the redemption of bonds or coupons at maturity, disbursing dividends, and handling tax issues. For example, the United States Federal Reserve is the fiscal agent of the federal government of the United States.

FREDDIE MAC: The trade name for the Federal Home Loan Mortgage Corporation. See FHLMC.

GINNIE MAE: The trade name for the Government National Mortgage Association. See GNMA.

GOVERNMENT ACCOUNTING STANDARDS BOARD: The independent organization that establishes and improves standards of accounting and financial reporting for U.S. state and local governments.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA): Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by the full faith and credit of the U.S. Government. **Ginnie Mae**, as these securities are called, are backed by the FHA, VA, or FmHA mortgages. The term “pass-throughs” is often used to describe Ginnie Maes.

INACTIVE DEPOSITS: Funds not immediately needed for disbursements.

INTEREST RATE: The annual yield earned on an investment, expressed as a percentage.

INVESTMENT AGREEMENTS: An agreement with a financial institution to borrow public funds subject to certain negotiated terms and conditions concerning collateral, liquidity and interest rates.

LIQUIDITY: Refers to the ability of an asset to be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done on these quotes.

LOCAL AGENCY INVESTMENT FUND (LAIF): The Local Agency Investment Fund (LAIF), is a voluntary program created by statute; began in 1977 as an investment alternative for California's local governments and special districts and it continues today under the California State Treasurer's administration. The enabling legislation for the LAIF is Section 16429.1 et seq. of the California Government Code. This program offers local agencies the opportunity to participate in a major portfolio, which invests hundreds of millions of dollars, using the investment expertise of the State Treasurer's Office investment staff at no additional cost to the taxpayer.

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This in-house management team is comprised of civil servants. The Local Investment Advisory Board (LIAB) provides oversight for LAIF. The LAIF is part of the Pooled Money Investment Account (PMIA).

LOCAL GOVERNMENT INVESTMENT POOL (LGIP): The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

MARKET VALUE: The price at which a security is trading and could presumably be sold.

MASTER REPURCHASE AGREEMENT: A written contract covering all future transactions between the parties repurchase/reverse repurchase agreement that establishes each party's in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller borrower.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MONEY MARKET MUTUAL FUNDS: Open-ended mutual fund that invests in commercial paper, bankers' acceptances, repurchase agreements, government securities, certificates of deposit, and other highly liquid and safe securities, and pays money market rates of interest. The fund's net asset value remains a constant \$1/share, with the interest rate increasing or decreasing.

NATIONAL RECOGNIZED STATISTICAL RATING ORGANIZATION (NRSRO): A rating organization designated by the SEC as being nationally recognized.

NEW ISSUE: Term used when a security is originally "brought" to market.

OFFER PRICE: The price at which a broker/dealer/seller will offer securities to an investor. See Asked Price and Bid Price.

OPEN MARKET OPERATIONS: Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC, in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; Sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool. Under the Federal Reserve Act, the Fed uses purchases and sales of government and Federal Agency securities to add to or subtract from commercial bank reserves. Goals are to sustain economic growth, high employment, and reasonable price stability.

PAPER GAIN OR LOSS: Term used for unrealized gain or loss on securities being held in a portfolio based on comparison of current market quotes and their original cost. This situation exists, as long as the security is held while there is a difference between cost value (book value) and the market value.

PERFECTED DELIVERY: Refers to an investment where the actual security or collateral is held by an independent third party representing the purchasing entity.

POOLED MONEY INVESTMENT ACCOUNT (PMIA): The PMIA began in 1955 and oversight is provided by the Pooled Money Investment Board (PMIB) and an in-house Investment Committee. The Investment Division of the State Treasurer's Office manages the PMIA under statutory authority granted by California Government Code sections 16430 and 16480.4. The Pooled Money Investment Board governs the PMIA. The State Treasurer chairs the Board, which also includes the State Controller and the State Director of Finance. Through PMIA, the State Treasurer invests taxpayers' money to manage the State's cash flow and strengthen the

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financial security of local governmental entities. The PMIA has three primary sources of funds: the State general fund; special funds held by State agencies; and moneys deposited by cities, counties and other entities into the Local Agency Investment Fund (LAIF).

PORTFOLIO: Collection of securities held by an investor.

PRIMARY DEALER: A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker-dealers, banks, and a few unregulated firms.

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

PURCHASE DATE: The date in which a security is purchased for settlement on that or a later date.

QUALIFIED PUBLIC DEPOSITORIES: A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

RATE OF RETURN: The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

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

REVERSE REPURCHASE AGREEMENT (Reverse REPO): A reverse-repurchase agreement (reverse repo) involves an investor borrowing cash from a financial institution in exchange for securities. The investor agrees to repurchase the securities at a specified date for the same cash value plus an agreed upon interest rate. Although the transaction is like a repo, the purpose of entering into a reverse repo is quite different. While a repo is a straightforward investment of public funds, the reverse repo is borrowing.

RISK: Degree of uncertainty of return on an asset.

SAFEKEEPING: a) The service provided by banks and trust companies for clients when the bank or trust company stores the securities, takes in coupon payments, and redeems issues at maturity b) A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in a bank's vaults for protection. See custody.

SEC RULE 15(C)3-1: See Uniform Net Capital Rule. Also called Net Capital Rule and Net Capital Ratio.

SECONDARY MARKET: A market made for the purchase and sale of outstanding issues following the initial distribution.

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SECURITIES AND EXCHANGE COMMISSION (SEC): Agency created by Congress to protect investors in securities transactions by administering securities legislation.

SETTLEMENT DATE: The date at which a trade is cleared by delivery of securities against funds.

SPREAD: a) The yield or price difference between the bid and offer on an issue. b) The yield or price difference between issues.

STRUCTURED NOTES: Notes issued by Government Sponsored Enterprises (FHLB, FNMA, etc.) and Corporations that have imbedded options (e.g., call features, step-up coupons, floating rate coupons, derivatives-based returns) into their debt structure. Their market performance is impacted by the fluctuation of interest rates, the volatility of the imbedded options, and shifts in the shape of the yield curve.

SWAP: The sale of one issue and the simultaneous purchase of another for some perceived advantage.

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

TREASURY BONDS: Long-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities of more than ten (10) years.

TREASURY NOTES: Medium-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities from two (2) to ten (10) years.

TRUST COMPANY: A trust company is a legal entity that acts as a fiduciary or agent on behalf of a person or business, for the purpose of administration, management and the eventual transfer of assets to a beneficial party. The trust company acts as a custodian for trusts, estates, custodial arrangements, asset management, stock transfer, beneficial ownership registration and other related arrangements. See Trustee.

TRUSTEE: A financial institution with trust powers that act in a fiduciary capacity for the benefit of the bondholders in enforcing the terms of the bond contract. See Trust Company.

U.S. GOVERNMENT AGENCIES: Instruments issued by various U.S. Government Agencies most of which are secured only by the credit worthiness of the particular agency.

UNIFORM NET CAPITAL RULE: Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; Also called **SEC RULE 15(C)3-1, Net Capital Rule** and **Net Capital Ratio**. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

YIELD: The rate of annual income return on an investment, expressed as a percentage. a) **INCOME YIELD** is obtained by dividing the current dollar income by the current market price for the security. b) **YIELD AT MATURITY** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

YIELD CURVE: Yield calculations of various maturities at a given time to observe spread difference.

CITY OF LAGUNA HILLS
INVESTMENT AND PORTFOLIO POLICIES
2019

* * * * *

Attachment: Exhibit A - Proposed 2019 Investment Policy (1723 : 2019 Investment Policy)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Deputy City Manager

ISSUE: Second Amendment to Office Lease for Suite 320 with Dayle McIntosh Center for the Disabled, Inc., for 24031 El Toro Road, Suite 320, Laguna Hills, California

RECOMMENDATION: That the City Council approve the Second Amendment to Office Lease with Dayle McIntosh Center for the Disabled, Inc., for 24031 El Toro Road, Suite 320, Laguna Hills, California, and authorize the City Manager to execute the Second Amendment to Lease.

SUMMARY:

At the December 9, 2014, City Council meeting, the City Council approved a three-year lease with Dayle McIntosh Center for the Disabled, Inc., ("Tenant") for 24031 El Toro Road, Suite 320. The three-year lease term commenced on December 21, 2014, and expired on December 20, 2017. During staff's negotiations for a lease renewal with the Tenant, the Tenant expressed interest in relocating to a larger space. Due to upcoming vacancies and possible relocations of other tenants, Tenant requested a First Amendment to the Lease with a month-to-month term for six months ending on June 20, 2018. As the situation has not changed due to upcoming vacancies and relocations of other tenants, staff is recommending the City Council approve and authorize a Second Amendment to the Lease through March 31, 2019. This extended term will allow staff and Tenant to better assess whether a larger space may be available to Tenant for relocation, as well as determine a more accurate timeline. Because the base rent was increased upon signing the First Amendment, staff is recommending the base rent not be increased and remain at \$2.20 per square foot.

Second Amendment to Civic Center Lease
November 27, 2018
Page 2

Effective Date:	November 27, 2018
Term:	Month-to-month for six (6) months
Rentable Square Feet:	1,218
Rate:	\$2.20 sq. ft.
Total Rent Payments:	\$10,718

FISCAL IMPACT:

The Second Amendment to Lease will result in Total Rent Payments of \$10,718 and will require no additional upfront capital.

ATTACHMENTS:

- Second Amendment to Lease
- First Amendment to Lease
- Lease



Second AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE is made and entered into as of November 27, 2018, by and between The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California ("Lessor") and Dayle McIntosh Center for the Disabled Inc., a California corporation ("Lessee").

WHEREAS, on or about December 9, 2014 a Lease was entered into by and between Lessor and Lessee relating to certain real property commonly known as (street address, city, state, zip): 24031 El Toro Road, Suite 320 Laguna Hills, CA 92654 (the "Premises"), and

WHEREAS, Lessor and Lessee ☒ have ☐ have not previously amended said Lease, and

WHEREAS, the Lessor and Lessee now desire to amend said Lease,

NOW, THEREFORE, for payment of TEN DOLLARS and other good and valuable consideration to Lessor, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree to make the following additions and modifications to the Lease:

☐ TERM: The Expiration Date is hereby ☐ advanced ☒ extended to March 31, 2019.

☐ AGREED USE: The Agreed Use is hereby modified to: _____.

☒ BASE RENT ADJUSTMENT: Monthly Base Rent shall be as follows: 2,679.60.

☒ OTHER: The extended term authorized herein shall be month to month ending March 31, 2019.

This Agreement shall not be construed against the party preparing it, but shall be construed as if all parties jointly prepared this Agreement and any uncertainty and ambiguity shall not be interpreted against any one party.

All other terms and conditions of this Lease shall remain unchanged and shall continue in full force and effect except as specifically amended herein.

EXECUTED as of the day and year first above written.

By Lessor:

The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California

By: _____
Name Printed: Donald J. White
Title: City Manager
Phone: _____
Fax: _____
Email: _____

By: _____
Name Printed: _____
Title: _____
Phone: _____
Fax: _____
Email: _____

Address: _____
Federal ID No.: _____

By Lessee:

Dayle McIntosh Center for the Disabled Inc., a California corporation

By: _____
Name Printed: Marcy Lovett
Title: President
Phone: _____
Fax: _____
Email: _____

By: _____
Name Printed: Paula Margeson
Title: Executive Director
Phone: _____
Fax: _____
Email: _____

Address: _____
Federal ID No.: _____

AIR CRE. 500 North Brand Blvd, Suite 900, Glendale, CA 91203, Tel 213-687-8777, Email contracts@aircre.com

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3.9.b

First AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE is made and entered into as of December 20, 2017, by and between
The City of Laguna Hills, a municipal corporation organized and existing under the
laws of the State of California ("Lessor")
 and Dayle McIntosh Center for the Disabled Inc., a California corporation ("Lessee").

WHEREAS, on or about December 9, 2014 a Lease was entered into by and between Lessor and Lessee (the
 "Lease") relating to certain real property commonly known as:
24031 El Toro Road, Suite 320 (the "Premises"), and

WHEREAS, Lessor and Lessee ☐ have ☒ have not previously amended said Lease, and

WHEREAS, the Lessor and Lessee now desire to amend said Lease,

NOW, THEREFORE, for payment of TEN DOLLARS and other good and valuable consideration to Lessor, the receipt and sufficiency
 of which is hereby acknowledged, the parties mutually agree to make the following additions and modifications to the Lease:

☒ TERM: The Expiration Date is hereby ☐ advanced ☒ extended to June 20, 2018.

☐ AGREED USE: The Agreed Use is hereby modified to: _____

☒ BASE RENT ADJUSTMENT: Monthly Base Rent shall be as follows: \$2,679.60 (\$2.20 per square foot per
month), effective and commencing on December 21, 2017

☒ OTHER: The extended term authorized herein shall be month to month for six (6)
months and ending on June 20, 2018.

This Agreement shall not be construed against the party preparing it, but shall be construed as if all parties jointly prepared this
 Agreement and any uncertainty and ambiguity shall not be interpreted against any one party.

All other terms and conditions of ~~this~~ the Lease shall remain unchanged and shall continue in full force and effect except as
 specifically amended herein.

EXECUTED as of the day and year first above written.

By Lessor:

The City of Laguna Hills

By: _____

Name Printed: Bruce E. Channing

Title: City Manager

By: _____

Name Printed: _____

Title: _____

By Lessee:

Dayle McIntosh Center for the Disabled Inc.,
a California corporation

By: _____

Name Printed: Marcy Lovett

Title: President

By: _____

Name Printed: Paula Margeson

Title: Executive Director

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you
 are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203.
 Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

BC
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STANDARD MULTI-TENANT OFFICE LEASE - GROSS

AIR COMMERCIAL REAL ESTATE ASSOCIATION

1. Basic Provisions ("Basic Provisions").

1.1 Parties: This Lease ("Lease"), dated for reference purposes only November 25, 2014, is made by and between The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California ("Lessor") and Dayle McIntosh Center for the Disabled Inc., a California corporation ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) Premises: That certain portion of the Project (as defined below), known as Suite Numbers(s) 320 third floor(s), consisting of approximately 1,218 rentable square feet and approximately 1,018 useable square feet ("Premises"). The Premises are located at: 24031 El Toro Road in the City of Laguna Hills, County of Orange, State of California, with zip code 92654. In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter specified, but shall not have any rights to the roof, the exterior walls, the area above the dropped ceilings, or the utility raceways of the building containing the Premises ("Building") or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." The Project consists of approximately 51,943 rentable square feet. (See also Paragraph 2)

1.2(b) Parking: 4/1000 unreserved and N/A reserved vehicle parking spaces at a monthly cost of \$N/A per unreserved space and \$N/A per reserved space. (See Paragraph 2.6)

1.3 Term: Three years and 0 months ("Original Term") commencing December 21, 2014 ("Commencement Date") and ending December 20, 2017 ("Expiration Date"). (See also Paragraph 3)

1.4 Early Possession: If the Premises are available Lessee may have non-exclusive possession of the Premises commencing N/A ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 Base Rent: \$2,436.00 per month ("Base Rent"), payable on the First day of each month commencing December 21, 2014. (See also Paragraph 4 below)

☒ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 4.4 (See Addendum Paragraph 1)

1.6 Lessee's Share of Operating Expense Increase: 2.34 percent (2.34%) ("Lessee's Share"). In the event that that size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.

1.7 Base Rent and Other Monies Paid Upon Execution:

- (a) Base Rent: \$2,436.00 for the period December 21, 2014-January 20, 2015
- (b) Security Deposit: \$1,294.80 on file. Add \$1,124 ("Security Deposit"). (See also Paragraph 5)
- (c) Parking: \$N/A for the period N/A
- (d) Other: \$N/A for N/A
- (e) Total Due Upon Execution of this Lease: \$3,560.00

1.8 Agreed Use: General Office Use

1.9 Base Year; Insuring Party. The Base Year is 2014. Lessor is the "Insuring Party". (See also Paragraphs 4.2 and 8)

1.10 Real Estate Brokers: (See also Paragraph 15 and 25)

(a) Representation: The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

- ☒ Essex Realty Management Inc. represents Lessor exclusively ("Lessor's Broker");
- ☐ N/A represents Lessee exclusively ("Lessee's Broker"); or
- ☐ N/A represents both Lessor and Lessee ("Dual Agency").

(b) Payment to Brokers: Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers for the brokerage services rendered by the Brokers the fee agreed to in the attached a separate written agreement or if no such agreement is attached, the sum of _____ or _____ % of the total Base Rent payable for the Original Term, the sum of _____ or _____ of the total Base Rent payable during any period of time that the Lessee occupies the Premises subsequent to the Original Term, and/or the sum of _____ or _____ % of the purchase price in the event that the Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises.

1.11 Guarantor. The obligations of the Lessee under this Lease shall be guaranteed by N/A

1.12 Business Hours for the Building: 7:00 a.m. to 6:00 p.m., Mondays through Fridays (except Building Holidays) and

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8:00 a.m. to 2:00 p.m. on Saturdays (except Building Holidays). "Building Holidays" shall mean the dates of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and N/A.

1.13 **Lessor Supplied Services.** Notwithstanding the provisions of Paragraph 11.1, Lessor is NOT obligated to provide the following within the Premises:

☐ Janitorial services

☐ Electricity

☐ Other (specify): N/A

1.14 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

☒ an Addendum consisting of Paragraphs 1 through 6;

☒ a plot plan depicting the Premises; Exhibit "A"

☒ a current set of the Rules and Regulations; Exhibit "B"

☒ a Work Letter; / Requirements for improvements or alterations by Lessee (Exhibit "D")

☐ a janitorial schedule;

☒ other (specify): Exhibit "C" Waiver and Release

2. Premises.

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **Note: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver the Premises to Lessee in a clean condition on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), and all other items which the Lessor is obligated to construct pursuant to the Work Letter attached hereto, if any, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law.

2.3 **Compliance.** Lessor warrants to the best of its knowledge that the improvements comprising the Premises and the Common Areas comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, covenants or restrictions of record, regulations, and ordinances ("Applicable Requirements") in effect on the Start Date. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the zoning and other Applicable Requirements are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Premises ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to nonvoluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) Lessee has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date, Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking.** So long as Lessee is not in default, and subject to the Rules and Regulations attached hereto, and as established by Lessor from time to time, Lessee shall be entitled to rent and use the number of parking spaces specified in Paragraph 1.2(b) at the rental rate applicable from time to time for monthly parking as set by Lessor and/or its licensee.

(a) If Lessee commits, permits or allows any of the prohibited activities described in the Lease or the rules then in effect, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

(b) The monthly rent per parking space specified in Paragraph 1.2(b) is subject to change upon 30 days prior written notice to Lessee. The rent for the parking is payable one month in advance prior to the first day of each calendar month.

2.7 **Common Areas - Definition.** The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Premises that are provided and designated by the Lessor from time to time for the general nonexclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including, but not limited to, common entrances, lobbies, corridors, stairwells, public restrooms, elevators, parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

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2.8 **Common Areas - Lessee's Rights.** Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the nonexclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations.** Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to adopt, modify, amend and enforce reasonable rules and regulations ("Rules and Regulations") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. The Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the noncompliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes.** Lessor shall have the right, in Lessor's sole discretion, from time to time:

- (a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of the lobbies, windows, stairways, air shafts, elevators, escalators, restrooms, driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;
- (b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;
- (c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;
- (d) To add additional buildings and improvements to the Common Areas;
- (e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and
- (f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. Term.

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of the Operating Expense Increase) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance. ~~(Paragraph 8.5)~~ Paragraph 8.2 & 8.3 of this Lease (See, Addendum Paragraph 3). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. Rent.

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 **Operating Expense Increase.** Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share of the amount by which all Operating Expenses for each Comparison Year exceeds the amount of all Operating Expenses for the Base Year, such excess being hereinafter referred to as the "Operating Expense Increase", in accordance with the following provisions:

- (a) "Base Year" is as specified in Paragraph 1.9.
- (b) "Comparison Year" is defined as each calendar year during the term of this Lease subsequent to the Base Year; provided, however, Lessee shall have no obligation to pay a share of the Operating Expense Increase applicable to the first 12 months of the Lease Term (other than such as are mandated by a governmental authority, as to which government mandated expenses Lessee shall pay Lessee's Share, notwithstanding they occur during the first twelve (12) months). Lessee's Share of the Operating Expense Increase for the first and last Comparison Years of the Lease Term shall be prorated according to that portion of such Comparison Year as to which Lessee is responsible for a share of such increase.

- (c) The following costs relating to the ownership and operation of the Project, calculated as if the Project was at least 95% occupied, are defined as "Operating Expenses":

- (i) Costs relating to the operation, repair, and maintenance in neat, clean, safe, good order and condition, but not the replacement (see subparagraph (g)), of the following:

- (aa) The Common Areas, including their surfaces, coverings, decorative items, carpets, drapes and window coverings, and including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, stairways, parkways, driveways, landscaped areas, striping, bumpers, irrigation systems, Common Area lighting facilities, building exteriors and roofs, fences and gates;

- (bb) All heating, air conditioning, plumbing, electrical systems, life safety equipment, communication systems and other equipment used in common by, or for the benefit of, tenants or occupants of the Project, including elevators and escalators, tenant directories, fire detection systems including sprinkler system maintenance and repair.

- (cc) All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.

- (ii) The cost of trash disposal, janitorial and security services, pest control services, and the costs of any environmental inspections;

- (iii) The cost of any other service to be provided by Lessor that is elsewhere in this Lease stated to be an "Operating Expense";

- (iv) The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 and any deductible portion of an insured loss concerning the Building or the Common Areas;

- (v) The amount of the Real Property Taxes payable by Lessor pursuant to paragraph 10;

- (vi) The cost of water, sewer, gas, electricity, and other publicly mandated services not separately metered;

- (vii) Labor, salaries, and applicable fringe benefits and costs, materials, supplies and tools, used in maintaining and/or cleaning the Project and accounting and management fees attributable to the operation of the Project;

- (viii) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such Capital Expenditure in any given month;

- (ix) The cost to replace equipment or improvements that have a useful life for accounting purposes of 5 years or less.

- (x) Reserves set aside for maintenance, repair and/or replacement of Common Area improvements and equipment.

- (d) Any item of Operating Expense that is specifically attributable to the Premises, the Building or to any other building in the



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Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Premises, Building, or other building. However, any such item that is not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(e) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(c) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(f) Lessee's Share of Operating Expense Increase is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the Operating Expense Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during such Year exceed Lessee's Share, Lessee shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such Year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of said statement. Lessor and Lessee shall forthwith adjust between them by cash payment any balance determined to exist with respect to that portion of the last Comparison Year for which Lessee is responsible as to Operating Expense Increases, notwithstanding that the Lease term may have terminated before the end of such Comparison Year.

(g) Operating Expenses shall not include the costs of replacement for equipment or capital components such as the roof, foundations, exterior walls or a Common Area capital improvement, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.

(h) Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or by insurance proceeds.

4.3 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States on or before the day on which it is due, without offset or deduction (except as specifically permitted in this Lease). All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25.75 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. **Use.** (See Addendum "Paragraph 2")

6.1 ~~Use. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements of the Building, will not adversely affect the mechanical, electrical, HVAC, and other systems of the Building, and/or will not affect the exterior appearance of the Building. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.~~

6.2 **Hazardous Substances.**

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, byproducts or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use such as ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall


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indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1e) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of written request therefor.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 **Lessee's Obligations.** Notwithstanding Lessor's obligation to keep the Premises in good condition and repair, Lessee shall be responsible for payment of the cost thereof to Lessor as additional rent for that portion of the cost of any maintenance and repair of the Premises, or any equipment (wherever located) that serves only Lessee or the Premises, to the extent such cost is attributable to abuse or misuse. In addition, Lessee rather than the Lessor shall be responsible for the cost of painting, repairing or replacing wall coverings, and to repair or replace any similar improvements within the Premises, Lessor may, at its option, upon reasonable notice, elect to have Lessee perform any particular such maintenance or repairs the cost of which is otherwise Lessee's responsibility hereunder.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, fire alarm and/or smoke detection systems, fire hydrants, and the Common Areas. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air lines, vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, and plumbing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the Interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof, ceilings, floors or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed \$2,000. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor. In addition to, and without limiting the other requirements of this Paragraph 7.3 all utilities, installations, and alterations made by Lessee shall also be subject to the provisions of Exhibit "D" attached to this Lease.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.


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(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. (See Addendum Paragraph 3.)

Insurance; Indemnity.

8.1 Insurance Premiums. The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 are included as Operating Expenses (see paragraph 4.2 (c)(iv)). Said costs shall include increases in the premiums resulting from additional coverage related to requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. Said costs shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. If the Project was not insured for the entirety of the Base Year, then the base premium shall be the lowest annual premium reasonably obtainable for the required insurance as of the Start Date, assuming the most nominal use possible of the Building and/or Project. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$2,000,000 procured under Paragraph 8.2(b).

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Manager or Lessors of Premises" Endorsement and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground lessor, and to any Lender insuring loss or damage to the Building and/or Project. The amount of such insurance shall be equal to the full insurable replacement cost of the Building and/or Project, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value Insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee for the next 12-month period.

(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessee shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 Lessee's Property, Business Interruption Insurance; Worker's Compensation Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Workers Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a Waiver of Subrogation endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(c) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 Insurance Policies. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 10 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 Waiver of Subrogation. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor and its Agents from Liability. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage,

obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 Failure to Provide Insurance. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Definitions.

(a) "Premises Partial Damage" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) "Premises Total Destruction" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) "Insured Loss" shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraphs 8.1 & 8.2 of this Lease (See Addendum Paragraph 3) Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) "Replacement Cost" shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) "Hazardous Substance Condition" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 Partial Damage - Insured Loss. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 Partial Damage - Uninsured Loss. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 Total Destruction. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.3 (e) of this Lease (see Addendum Paragraph 3) Paragraph 8.6.

9.5 Damage Near End of Term. If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value Insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 Termination; Advance Payments. Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. Real Property Taxes.

10.1 Definitions. As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of



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leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 **Payment of Taxes.** Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be included in the calculation of Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 **Additional Improvements.** Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of such other lessees. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.4 **Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. Utilities and Services.

11.1 **Services Provided by Lessor.** Lessor shall provide heating, ventilation, air conditioning, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use in connection with an office, and replacement light bulbs and/or fluorescent tubes and ballasts for standard overhead fixtures. Lessor shall also provide janitorial services to the Premises and Common Areas 5 times per week, excluding Building Holidays, or pursuant to the attached janitorial schedule, if any. Lessor shall not, however, be required to provide janitorial services to kitchens or storage areas included within the Premises.

11.2 **Services Exclusive to Lessee.** Lessee shall pay for all water, gas, light, power, telephone and other utilities and services specially or exclusively supplied and/or metered exclusively to the Premises or to Lessee, together with any taxes thereon. If a service is deleted by Paragraph 11.13 and such service is not separately metered to the Premises, Lessee shall pay at Lessor's option, either Lessee's Share or a reasonable proportion to be determined by Lessor of all charges for such jointly metered service.

11.3 **Hours of Service.** Said services and utilities shall be provided during times set forth in Paragraph 1.12. Utilities and services required at other times shall be subject to advance request and reimbursement by Lessee to Lessor of the cost thereof.

11.4 **Excess Usage by Lessee.** Lessee shall not make connection to the utilities except by or through existing outlets and shall not install or use machinery or equipment in or about the Premises that uses excess water, lighting or power, or suffer or permit any act that causes extra burden upon the utilities or services, including but not limited to security and trash services, over standard office usage for the Project. Lessor shall require Lessee to reimburse Lessor for any excess expenses or costs that may arise out of a breach of this subparagraph by Lessee. Lessor may, in its sole discretion, install at Lessee's expense supplemental equipment and/or separate metering applicable to Lessee's excess usage or loading.

11.5 **Interruptions.** There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, i.e. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefore to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance

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of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 **Default; Breach.** A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraphs 8.1 & 8.2 of this Lease (See Addendum Paragraph 3) Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material data safety sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 **Inducement Recapture.** Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 **Late Charges.** Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and

accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 **Interest.** Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("Interest") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 **Breach by Lessor.** (see Addendum)

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. **Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the rentable floor area of the Premises, or more than 25% of Lessee's Reserved Parking Spaces, if any, are taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. **Brokerage Fees.**

15.1 **Additional Commission.** In addition to the payments owed pursuant to Paragraph 4.10 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.

15.2 **Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 4.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. **Estoppel Certificates.**

(a) Each Party (as "Responding Party") shall within 10 days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published by the AIR Commercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor or its partners, members, directors, officers or shareholders, and Lessee shall look to the Project, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility

of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. Notices.

23.1 Notice Requirements. All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 Date of Notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. Waivers.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. Disclosures Regarding The Nature of a Real Estate Agency Relationship.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) **Lessor's Agent.** A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: **To the Lessor:** A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. **To the Lessee and the Lessor:** a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) **Lessee's Agent.** An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. **To the Lessee:** A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. **To the Lessee and the Lessor:** a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) **Agent Representing Both Lessor and Lessee.** A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "Security Device"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 Attornment. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 Non-Disturbance. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "Non-Disturbance Agreement") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend


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the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 Self-Executing. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Lessor may not place any sign on the exterior of the Building that covers any of the windows of the Premises. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor.

37.1 Execution. The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association.

37.2 Default. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted any Option, as defined below, then the following provisions shall apply.

39.1 Definition. "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 Options Personal To Original Lessee. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 Effect of Default on Options.

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties. In the event, however, that Lessor should elect to provide security services, then the cost thereof shall be an Operating Expense.

41. Reservations.

(a) Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessor may also: change the name, address or title of the Building or Project upon at least 90 days prior written notice; provide and install, at Lessee's expense, Building standard graphics on the door of the Premises and such portions of the Common Areas as Lessor shall reasonably deem appropriate; grant to any lessee the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein; and to place such signs, notices or displays as Lessor reasonably deems necessary or advisable upon the roof, exterior of the Building or the Project or on signs in the Common Areas. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights. The obstruction of Lessee's view, air, or light by any structure erected in the vicinity of the Building, whether by Lessor or third parties, shall in no way affect this Lease or impose any liability upon Lessor.

(b) Lessor also reserves the right to move Lessee to other space of comparable size in the Building or Project. Lessor must provide at least 45 days prior written notice of such move, and the new space must contain improvements of comparable quality to those contained within the Premises. Lessor shall pay the reasonable out of pocket costs that Lessee incurs with regard to such relocation, including the expenses of moving and necessary stationary revision costs. In no event, however, shall Lessor be required to pay an amount in excess of two months Base Rent. Lessee may not be relocated more than once during the term of this Lease.


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(c) Lessee shall not: (i) use a representation (photographic or otherwise) of the Building or Project or their name(s) in connection with Lessee's business; or (ii) suffer or permit anyone, except in emergency, to go upon the roof of the Building.

42. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. **Authority; Multiple Parties; Execution**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. **Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. **Offer.** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable nonmonetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. **Waiver of Jury Trial.** THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

48. **Arbitration of Disputes.** An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease

☐ is ☒ is not attached to this Lease.

49. **Accessibility; Americans with Disabilities Act.**

(a) The Premises: ☐ have not undergone an inspection by a Certified Access Specialist (CASp). ☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. ☒ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.

(b) Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING AND SIZE OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.
Executed at: 24031 El Toro Road, Suite 100

On: _____

Executed at: _____

On: 12-1-14

By LESSOR:

The City of Laguna Hills

By: _____

Name Printed: Bruce E. Channing

Title: City Manager

By: _____

Name Printed: Peggy J. Johns

Title: City Clerk

Address: 24031 El Toro Road, Suite 100

Laguna Hills, CA 92654

Telephone: (____) _____

Facsimile: (____) _____

Email: _____

Email: _____

Federal ID No. _____

By LESSEE:

Dayle McIntosh Center for the Disabled Inc.,
a California corporation

By: _____

Name Printed: Richard Devylder

Title: Board President

By: _____

Name Printed: Michael Ryan

Title: Board Treasurer

Address: _____

Telephone: (____) _____

Facsimile: (____) _____

Email: _____

Email: _____

Federal ID No. _____



INITIALS



INITIALS

LESSOR'S BROKER:

Essex Realty Management, Inc.

LESSEE'S BROKER:

Attn: Sandi MontezAddress: 111 Corporate Drive, Suite 110Ladera Ranch, CA 92694Telephone: (949) 218-3801Facsimile: ()

Email: _____

Broker/Agent DRE License #: 00965485

Attn: _____

Address: _____

Telephone: ()Facsimile: ()

Email: _____

Broker/Agent DRE License #: _____

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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ADDENDUM TO LEASE

THIS ADDENDUM TO LEASE (this "Addendum") shall constitute part of that certain STANDARD MULTI-TENANT OFFICE LEASE – GROSS ("Lease"), dated as of November 26, 2014, between The City of Laguna Hills ("Lessor"), and Dayle McIntosh Center ("Lessee"). The terms of this Addendum shall be incorporated into the Lease for all purposes. In the event of any conflict between the terms of the Lease and the terms of this Addendum, the terms of this Addendum shall control.

1. Base Rent Schedule. Section 4.4 is hereby added to the Lease to read as follows:

4.4 Base Rent Schedule

4.4.1 The monthly Base Rent payable as defined in paragraph 4.1 and as set forth in paragraph 1.7 (a) of the Lease shall be adjusted as set forth below:

Months		Rent Per Month
12/21/2014	12/20/2015	\$2,436.00
12/21/2015	12/20/2016	\$2,533.44
12/21/2016	12/20/2017	\$2,634.78

2. Use. Section 6.1 of the Lease is hereby deleted in its entirety and replaced by the following:

"6.1. Use. The Premises shall be used only for the Agreed Use and for no other use. Lessee's use of the Premises shall be in compliance with and subject to all Applicable Requirements relating to or affecting the Project, the Premises or the Building or the use or operation thereof, whether now existing or hereafter enacted, including, without limitation, the Americans with Disabilities Act of 1990, 42 USC 12111 et seq. (the "ADA") as the same may be amended from time to time, any and all federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of courts, ordinances, rules, codes, orders, decrees, directives, guidelines, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future which are or become applicable to Lessee, the Premises, the Building, or the Project ("Environmental Laws"), any transportation or traffic management plan in satisfaction of any requirement imposed on the Project by a governmental agency with jurisdiction over the Project, and any CC&Rs or any supplement thereto recorded in any official or public records with respect to the Project or any portion thereof (collectively, "Applicable Laws"). Lessee shall be responsible for obtaining any permit, business license, or other permits or licenses required by any governmental agency permitting Lessee's use or occupancy of the Premises. Lessee shall not commit waste, overload the floors or structure of the Building, subject the Premises, the Building, the Common Area or the Project to any use which would damage the same or increase the risk of loss or violate any insurance coverage, permit any unreasonable odors, smoke, dust, gas, substances, noise or vibrations to emanate from the Premises, take any action which would constitute a nuisance or would disturb, obstruct or endanger any other tenants, take any action which would abrogate any warranties, or use or allow the Premises to be used for any unlawful purpose. Lessor shall not be responsible for non-compliance by any other tenant or occupant of the Project with, or Lessor's failure to enforce, any of the rules or regulations or CC&Rs or any other terms or provisions of such tenant's or occupant's lease. Lessee shall promptly comply with the reasonable requirements of any board of fire insurance underwriters or other similar body now or hereafter constituted. Lessee shall not do any act which shall in any way encumber the title of Lessor in and to the Premises, the Building or the Project.

3. Insurance; Indemnity. Sections 8.1 through 8.6 of the Lease are hereby deleted in their entirety and replaced by the following:

“8.1 Lessor’s Insurance. Lessor shall maintain insurance through individual or blanket policies insuring the Building against fire and extended coverage (including, if Lessor elects, “all risk” coverage, earthquake/volcanic action, flood and/or surface water insurance) for the full replacement cost of the Building, with deductibles and the form and endorsements of such coverage as selected by Lessor, together with rental abatement insurance against loss of Rent in an amount equal to the amount of Rent for a period of at least twelve (12) months commencing on the date of loss. Lessor may also carry such other insurance as Lessor may deem prudent or advisable, including, without limitation, liability insurance in such amounts and on such terms as Lessor shall determine. Lessee shall pay to Lessor, as a portion of the Operating Expenses, the costs of the insurance coverages described herein, including, without limitation, Lessor’s cost of any self-insurance deductible or retention.

8.2 Lessee’s Insurance. Lessee shall, at Lessee’s expense, obtain and keep in force at all times the following insurance:

(a) Commercial General Liability Insurance (Occurrence Form). A policy of commercial general liability insurance (occurrence form) having a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate per location if Lessee has multiple locations, providing coverage for, among other things, blanket contractual liability, premises, products/completed operations with an “Additional Insured Managers or Lessors of Premises Endorsement” and personal and advertising injury coverage, with deletion of the exclusion for explosion, collapse or underground hazard, if applicable, and, if necessary, Lessee shall provide for restoration of the aggregate limit, and provided that the policy shall not contain any intra insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under the Lease as an “insured contract” for the performance of Lessee’s indemnity obligations under the Lease;

(b) Automobile Liability Insurance. Comprehensive automobile liability insurance having a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence and insuring Lessee against liability for claims arising out of ownership, maintenance, or use of any owned, hired or non-owned automobiles;

(c) Workers’ Compensation and Employer’s Liability Insurance. Workers’ compensation insurance having limits not less than those required by state statute and federal statute, if applicable, and covering all persons employed by Lessee in the conduct of its operations on the Premises (including the all states endorsement and, if applicable, the volunteers endorsement), together with employer’s liability insurance coverage in the amount of at least Five Hundred Thousand (\$500,000);

(d) Property Insurance. “Special Form” property insurance including boiler and machinery comprehensive form, if applicable, covering damage to or loss of any of Lessee’s personal property, fixtures, equipment and alterations, including electronic data processing equipment (collectively “Lessee’s Property”) (and coverage for the full replacement cost thereof including business interruption of the Lessee), together with, if the property of Lessee’s invitees is to be kept in the Premises, warehouseman’s legal liability or bailee customers insurance for the full replacement cost of the property belonging to invitees and located on the Premises.

(e) Business Interruption. Loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all peril commonly

insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

8.3 General.

(a) Insurance Companies. Insurance required to be maintained by Lessee shall be written by companies licensed to do business in the state in which the Premises are located and having a "General Policyholders Rating" of at least "A-" (or such higher rating as may be required by a lender having a lien on the Premises) and a financial rating of no less than VII as set forth in the most current issue of "Best's Insurance Guide."

(b) Certificates of Insurance. Lessee shall deliver to Lessor certificates of insurance and endorsements for all insurance required to be maintained by Lessee in the form acceptable to Lessor no later than seven (7) days prior to the date of possession of the Premises. Lessee shall, at least ten (10) days prior to expiration of the policy, furnish Lessor with certificates of renewal or "binders" thereof. If Lessee fails to maintain any insurance required in the Lease, Lessee shall be liable for all losses and costs suffered or incurred by Lessor (including litigation costs and attorneys' fees and expenses) resulting from said failure.

(c) Additional Insureds. Lessor, Lessor's lender, and any property management company of Lessor for the Premises shall be named as additional insureds (utilizing ISO Form CG2010 (11/85) or its equivalent) under all of the policies required by section 8.2(a). The policies required under Section 8.2(a) shall provide for severability of interest.

(d) Primary Coverage. All insurance to be maintained by Lessee shall, except for workers' compensation and employer's liability insurance, be primary, without right of contribution from insurance of Lessor. Any umbrella liability policy or excess liability policy (which shall be in "following form") shall provide that if the underlying aggregate is exhausted, the excess coverage will drop down as primary insurance. The limits of insurance maintained by Lessee shall not limit Lessee's liability under the Lease.

(e) Waiver of Subrogation. Notwithstanding any other provisions of the Lease, Lessee and Lessor each waive all rights to recover damages against the other, for loss or damage caused by fire and other perils and any other risk to the extent covered by policies of insurance or required to be covered by policies of insurance which are required to be carried in accordance with this Lease. This provision is intended to waive fully, any rights and/or claims which might give rise to a right of subrogation in favor of any insurance carrier. The coverages obtained by each of Lessee and Lessor pursuant to the Lease shall include, without limitation, a waiver of subrogation endorsement attached to the certificate of insurance.

(f) Notification of Incidents. Lessee shall notify Lessor within twenty-four (24) hours after the occurrence of any accidents or incidents in the Premises, the Building, Common Areas or the Project which could give rise to a claim under any of the insurance policies required under this Section 8.

4. Breach by Lessor; Performance by Lessee on Behalf of Lessor. Section 13.6(b) of the Lease is hereby deleted in its entirety and replaced with the following:

"13.6(b). Lessee's Remedies. Lessee and all successors and assigns covenant and agree that, in the event of any actual or alleged default by Lessor, Lessee's sole and exclusive remedy shall be either to seek either specific performance or monetary damages, provided that Lessor shall not be liable

for loss of business profits or consequential damages, and provided further, that any recourse for monetary damages by Lessee against Lessor shall be limited solely and exclusively to an amount which is equal to the amounts paid by Lessee to Lessor under the Lease (and Lessee hereby expressly waives and releases personal liability of Lessor in excess of such amount on behalf of itself and all persons claiming by through, or under the lease) Further, in no event shall the obligations of Lessor under the Lease constitute the personal obligations of Lessor or its partners, members, directors, officers, elected officials or shareholders, and Lessee shall have no right to seek recourse against Lessor's partners, members, directors, officers, elected officials or shareholders, or any of their personal assets for the satisfaction of any liability of Lessor with respect to the Lease. Lessee expressly waives all remedies except those specifically set forth in the Lease, including, without limitation, any right of offset or abatement except as specifically set forth in the Lease, any right to terminate the Lease under Civil Code Sections 1932(2), 1933(4) and 1941 or any other successor statute, or any statutory, legal or equitable self-help remedy including, without limitation, Civil Code Section 1942 or any other current or future law. Nothing contained in the Lease shall entitle Lessee to terminate the Lease as a result of Lessor's default nor excuse Lessee from paying Rent or Additional Rent due hereunder."

5. Estoppel Certificates. All references in the Lease to "Estoppel Certificate", including, but not limited to the definition in Section 16(a), shall refer to Lessor's standard form certificate.

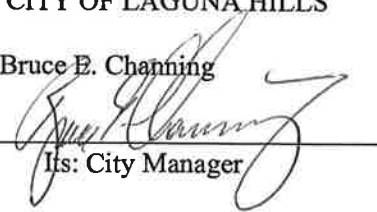
6. Recordation. Lessee shall not have any right to cause the Lease or any short form or memorandum thereof to be recorded.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of the Lease.

"Lessor"

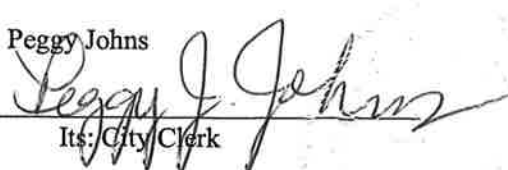
THE CITY OF LAGUNA HILLS

By: Bruce E. Channing

By: 

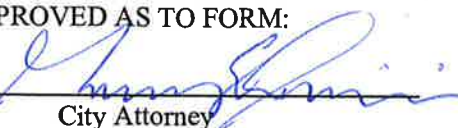
Its: City Manager

By: Peggy Johns

By: 

Its: City Clerk

APPROVED AS TO FORM:

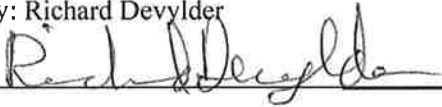
By: 

City Attorney

"Lessee"

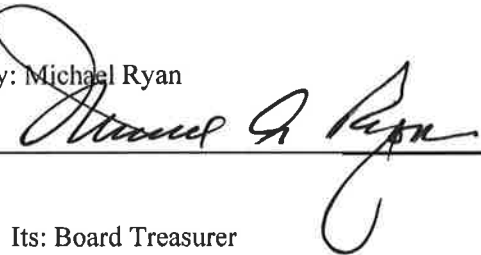
Dayle McIntosh Center for the Disabled Inc., a
California corporation

By: Richard Devylder

A handwritten signature in black ink, appearing to read "Richard Devylder", written over a horizontal line.

Its: Board President

By: Michael Ryan

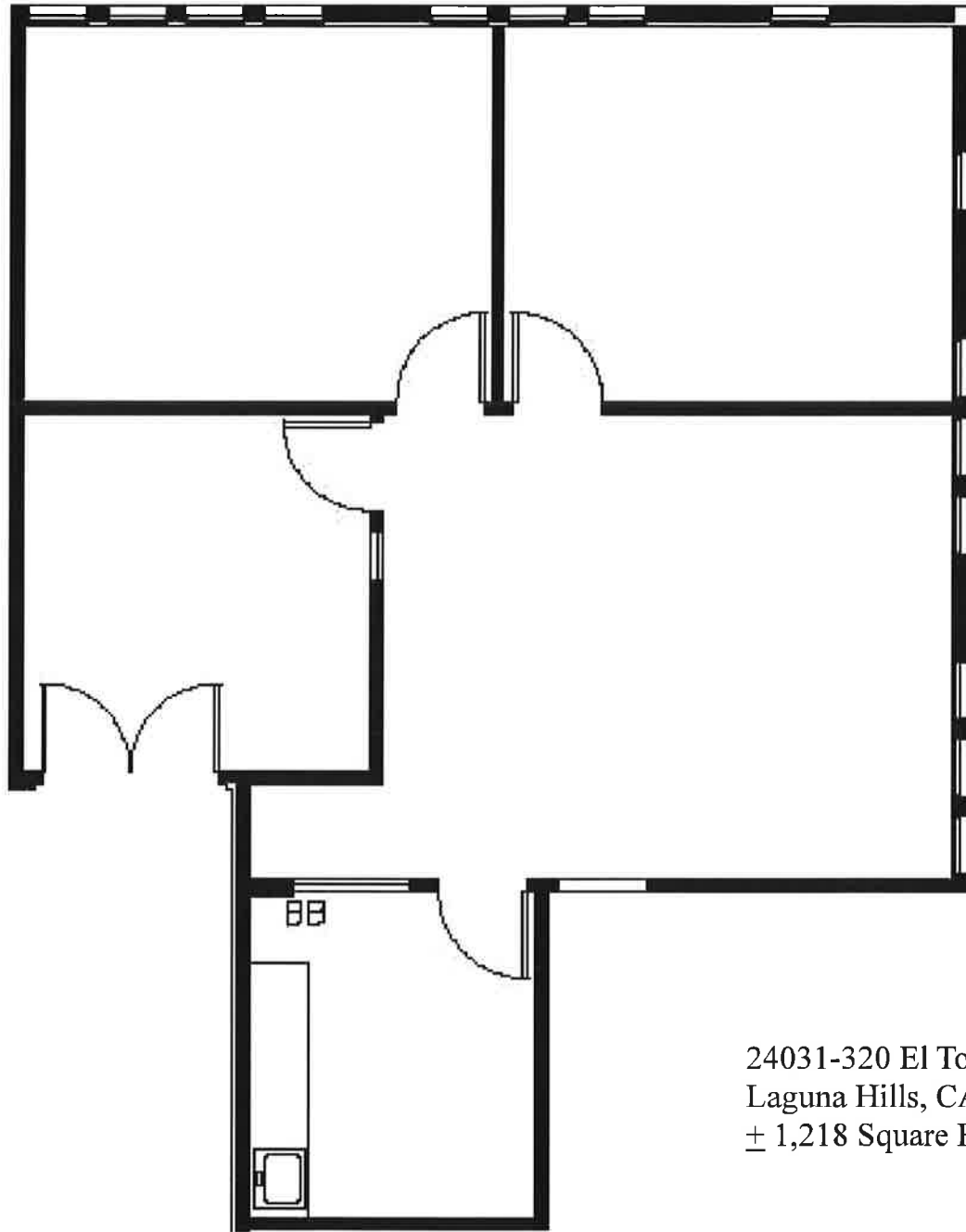
A handwritten signature in black ink, appearing to read "Michael Ryan", written over a horizontal line.

Its: Board Treasurer

Attachment: Lease (1740 : Second Amendment to Civic Center Lease)

LAGUNA HILLS CIVIC CENTER

24031-24035 El Toro Road, Laguna Hills



24031-320 El Toro Road
Laguna Hills, CA 92653
± 1,218 Square Feet

For Leasing Information:

Sandi Montez
smontez@essexrealty.com

(949) 218-3801

Jessica Heer
jheer@essexrealty.com

Managed by:

ESSEX | Management
Investment
Development

Attachment: Lease (1740 : Second Amendment to Civic Center Lease)

EXHIBIT B**RULES AND REGULATIONS****ATTACHED TO AND MADE A PART OF STANDARD OFFICE LEASE**

The following Rules and Regulations shall be in effect at the Office Building Project. Lessor reserves the right to adopt reasonable modifications and additions hereto. In the case of any conflict between these Rules and Regulations and the Lease, the Lease shall be controlling.

1. Except with the prior written consent of Lessor, no Lessee shall conduct any retail sales or any manufacturing of any kind in or from the Premises, or any business other than that specifically provided for in the Lease.

2. Lessor reserves the right to prohibit personal goods and services vendors from access to the Office Building Project except upon such reasonable terms and conditions, including but not limited to the payment of a reasonable fee and provision for insurance coverage, as are related to the safety, care and cleanliness of the Office Building Project, the preservation of good order thereon, and the relief of any financial or other burden on Lessor occasioned by the presence of such vendors or the sale by them of personal goods or services to the Lessee or its employees. If reasonably necessary for the accomplishment of these purposes, Lessor may exclude a particular vendor entirely or limit the number of vendors who may be present at any one time in the Office Building Project. The term "personal goods or services vendors" means persons who periodically enter the Office Building Project of which the Premises are a part for the purpose of selling goods or services to a Lessee, other than goods or services, which are used by a lessee only for the purpose of conducting its business on the Premises. "Personal goods or services" include, but are not limited to, drinking water and other beverages, food, barbering services, and shoe shining services. This Section 2 shall not apply to Lessee's vendors and suppliers in connection with Lessee's operation of its business.

3. The sidewalks, halls, passages, elevators and stairways shall not be obstructed by any Lessee or used by it for any purpose other than for ingress to and egress from their respective Premises. The halls, passages, entrances, elevators, stairways, balconies and roof are not for the use of the general public, and Lessor shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Lessor shall be prejudicial to the safety, character, reputation and interests of the Office Building Project and its lessees, provided that nothing herein contained shall be construed to prevent such access to persons with whom Lessee normally deals only for the purpose of conducting its business on the Premises (such as clients, customers, office suppliers and equipment vendors, and the like) unless such persons are engaged in illegal activities. No Lessee and no employees of any Lessee shall go upon the roof of the Building without the written consent of Lessor. This Section 3 shall not apply to Lessee's vendor's suppliers in connection with Lessee's operation of its business.

4. The sashes, sash doors, windows, glass lights, and any lights or skylights that reflect or admit light into the halls or other places of the Building shall not be covered or obstructed. The toilet rooms, water and wash closets and other water apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein, and the expense of any breakage, stoppage or damage, resulting from the violation of this rule shall be borne by the Lessee who, or whose clerks, agents, employees, or visitors, shall have caused it.

5. No sign, advertisement or notice visible from the exterior of the Premises or Building shall be inscribed, painted or affixed by Lessee on any part of the Office Building Project or the Premises without the prior written consent of Lessor. If Lessor shall have given such consent at any time, whether before or after the execution of this Lease, such consent shall in no way operate as a waiver or release of any of the

provisions hereof or of this Lease, and shall be deemed to relate only to the particular sign, advertisement or notice so consented to by Lessor and shall not be construed as dispensing with the necessity or obtaining the specific written consent of Lessor with respect to each and every such sign, advertisement or notice, as the case may be, so consented to by Lessor. Lessor shall have the right to remove any non-approved sign, advertisement or notice, without notice to and at the expense of Lessee, and Lessor shall not be liable in damages for such removal.

6. In order to maintain the outward professional appearance of the Office Building Project all window coverings to be installed at the Premises shall be subject to Lessor's prior approval. If Lessor, by a notice in writing to Lessee, shall object to any curtain, blind, shade or screen attached to or hung in, or used in connection with, any window door of the Premises, such use of such curtain, blind, shade or screen shall be forthwith discontinued by Lessee. No awnings shall be permitted on any part of the Premises.

7. Lessee shall not lay linoleum, tile, carpet or other similar floor covering so that the same shall be affixed to the floor of the Premises in any manner except as approved by Lessor.

8. Lessee shall not do or permit anything to be done in the Premises, or bring or keep anything therein, which shall in any way increase the rate of fire insurance on the Office Building Project, or on the property kept therein, or obstruct or interfere with the rights of other Lessees, or in any way injure or annoy them, or conflict with the regulations of the Fire Department or the fire laws, or with any insurance policy upon the Office Building Project, or any part thereof, or with any rules and ordinances established by the Board of Health or other governmental authority.

9. No Lessee shall sweep or throw or permit to be swept or thrown from the Premises any dirt or other substance into any of the corridors or halls or elevators, or out of the doors or windows or stairways of the Building. Lessee shall not use, keep or permit to be used any foul or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Lessor or other occupants of the Office Building Project by reason of noise, odors, fire hazards and/or vibrations, or interfere in any way with other Lessees or those having business therein, nor shall any animals or birds be kept in or about the Office Building Project.

10. Lessee and its employees, agents and invitees shall not smoke any tobacco products or any other smoking materials whatsoever in the Premises, Building, common areas or any other area of the Project except in such areas, if any, as shall be designated by Lessor for smoking, in Lessor's sole and absolute discretion.

11. No cooking shall be done or permitted by Lessee on the Premises, except for the use of a microwave oven for food or Underwriter's Laboratory approved equipment for brewing coffee, tea, and similar beverages shall be permitted, provided that such use is in compliance with law. Offices in the Office Building Project shall not be used for the storage of merchandise or for sleeping or lodging.

12. Lessee, upon the termination of its tenancy, shall deliver to Lessor all the keys of offices, rooms and toilet rooms which shall have been furnished Lessee or which Lessee shall have had made, and in the event of loss of any keys so furnished, shall pay Lessor therefore.

13. On Saturdays after 6:00pm., Sundays and legal holidays, and on other days between the hours of 9:00 p.m. and 7:00 a.m., access to the Office Building Project or to the halls, corridors, elevators or stairways in the Building, or to the Premises may be refused unless the person seeking access is known to the building watchman, if any, in charge and has a pass or is properly identified. Lessor shall in no case be liable for damages for the admission to or exclusion from the Office Building Project of any person whom Lessor has the right to exclude under Rule 3 above. In case of invasion, mob, riot, public excitement, or other commotion, Lessor reserves the right but shall not be

obligated to prevent access to the Office Building Project during the continuance of the same by closing the doors or otherwise, for the safety of the tenants and protection of property in the Office Building Project.

14. Lessee shall see that the windows and doors of the Premises are closed and securely locked before leaving the building and Lessee shall exercise extraordinary care and caution that all water faucets or water apparatus are entirely shut off before Lessee or Lessee's employees leave the Building, and that all electricity, gas or air shall likewise be carefully shut off, so as to prevent waste or damage, and for any default or carelessness Lessee shall make good all injuries sustained by other Lessees or occupants of the Building or Lessor.

15. Lessee shall not alter any lock or install a new or additional lock or any bolt on any door of the Premises without prior written consent of Lessor. If Lessor shall give its consent, Lessee shall in each case furnish Lessor with a key for any such lock.

16. Lessee shall not install equipment such as, but not limited to, electronic tabulating or computer equipment requiring electrical or air conditioning service in excess of those to be provided by Lessor under the Lease and any such equipment shall be placed in the Premises in settings approved by Lessor to adsorb or prevent any vibration, noise or annoyance.

17. No bicycle, or shopping cart, or other vehicle or any animal shall be brought into the Premises or the halls, corridors, elevators or any part of the Building by Lessee.

18. Lessor shall have the right to prohibit the use of the name of the Office Building Project or any other publicity by Lessee which in Landlord's opinion tends to impair the reputation of the Office Building Project, or their desirability for other Lessees, and upon written notice from Lessor, Lessee will refrain from or discontinue such publicity.

19. Lessee shall not erect any aerial or antenna on the roof or exterior walls of the Premises, the Building, or the Office Building Project.

20. Lessee shall not overload the floor of the Premises. In addition, Lessee shall not mark, drive nails, screw or drill into partitions, ceilings or floor of the Premises or deface the Premises.

21. No furniture, freight or equipment of any kind shall be brought into the Building or the Building's elevator without the consent of Lessor and all moving of the same into or out of the Building shall be done at such time and in such manner, as Lessor shall designate. Lessor shall have the right to prescribe the weight, size and position of all safes and other heavy equipment brought into the Building and also the times and manner of moving the same in and out of the Office Building Project. Safes or other heavy objects shall, if considered necessary by Lessor, stand on wood strips of such thickness as is necessary to properly distribute the weight. However, Lessor's consent to placement of Lessee's safes, heavy equipment or furniture shall not constitute a representation or warranty by Lessor that the safe, heavy equipment or furniture complies, with regard to distribution of weight and/or vibration, with the provisions of the Rule 21 nor relieve Lessee from responsibility for the consequences of noncompliance. Lessor will not be responsible for loss of or damage to any safe or property from any cause and all damage done to the Building by moving or maintaining any such safe or property from any cause and all damage done to the Building by moving or maintaining any such safe or other property shall be repaired at the expense of Lessee. There shall not be used in any space, or in the public halls of the Building, either by any Lessee or others, any hand trucks except those equipped with rubber tires and side guards.

22. Except with the written consent of Lessor, no person or persons other than those approved by Lessor shall be permitted to enter the Building for their purpose of cleaning the same. Lessee shall not cause any unnecessary labor by reason of Lessee's carelessness or indifference in the preservation of good order and cleanliness. Lessor shall in no way be responsible to any Lessee for any loss of property on the Premises, however occurring, or for any damage done to the effects of any lessee by the janitor or any other employee or any other person. Janitor service shall include ordinary dusting and cleaning by the janitor assigned to such work and shall not include cleaning of carpets or rugs, except normal vacuuming, or moving of furniture and other special services. Janitor service may not be furnished on nights when rooms are occupied after 9:00p.m.

23. Lessor will direct electricians as to where and how telephone and telegraph wires are to be introduced. No boring or cutting for wires will be allowed without the consent of Lessor. The location of telephones, call boxes and other office equipment affixed to the Premises shall be subject to the approval of Lessor.

24. No furniture, packages, supplies, equipment or merchandise will be received in the Building or carried up or down in the elevators, except between such hours and in such elevators as shall be designated by Lessor.

25. Lessor reserves the right to exclude or expel from the Office Building Project any person who in the judgment of Lessor, is intoxicated or under the influence of liquor or illegal, non-prescription drugs, or who shall in any manner do any act in violation of any of the Rules and Regulations of the Office Building Project.

26. The requirements of Lessee will be attended to only upon application to Lessor. Contractors, vendors and employees of Lessor shall not perform any work or do anything outside of their regular duties unless under special instructions from the Lessor or Lessor's agent.

27. No vending machine shall be installed, maintained or operated upon the Premises without the written consent of the Lessor.

28. Lessor shall have the right, exercisable without notice and without liability to Lessee, to change the name and the street address of the Building and/or Office Building Project of which the Premises are a part.

29. Lessee agrees that it shall comply with all fire and security regulations that may be issued from time-to-time by Lessor and Lessee also shall provide Lessor with the name of a designated responsible employee to represent Lessee in all matters pertaining to such fire or security regulations.

30. Lessor reserves the right by written notice to Lessee, to rescind, alter or waive any rule or regulation at any time prescribed for the Office Building Project when, in Lessor's judgment, it is necessary, desirable or proper for the best interest of the Office Building Project and its lessees.

31. Lessees shall not disturb, solicit, or canvas any occupant of the Office Building Project and shall cooperate to prevent same.

32. Lessor shall furnish heating and air conditioning during the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 p.m. on Saturday except for holidays. In the event Lessee requires heating and air conditioning during off hours, Sundays or Holidays, Lessor shall on notice provide such services at the then prevailing rate for such extra services.

33. Lessee shall cooperate with Lessor in obtaining maximum effectiveness of the cooling system by closing blinds when the sun's rays fall directly on windows of the premises. Lessee shall not obstruct, alter, or in any way impair the efficient operation of Lessor's heating, ventilating and air-conditioning system. Lessee shall not tamper with or change the setting of any thermostats or control valves.

34. Parking

- (a) The parking lot shall be accessible twenty-four (24) hours per day, subject to parking card or other reasonable Identification or security restriction as may be reasonably established by Lessor from time-to-time. Lessee agrees to cooperate with Lessor in completing regular maintenance of the parking lot.
- (b) Automobiles must be parked entirely within the stall lines.
- (c) All directional signs and arrows must be observed and the speed limit shall be 5 miles per hour.
- (d) Parking is prohibited in areas not striped for parking.
- (e) Lessor may refuse to permit any person who violates the within rules to park in the parking lot, and any violation of the rules shall subject the automobile to removal from the parking lot at the parker's expense.
- (f) Every parker is required to park and lock his or her own automobile. All responsibility for any loss or damage to automobile or any personal property therein is assumed by the parker.
- (g) The parking lot is for the sole purpose of parking one automobile per space. Washing, waxing, cleaning or servicing of any vehicles by the parker or his agents is prohibited.
- (h) Storage of vehicles in the parking facilities is prohibited. Lessee and Lessee's employees and visitors shall not leave vehicles in the parking lot overnight.
- (I) Lessor reserves the right to restrict customer, Lessee and Lessee's employees parking to a limited designated area or areas.

35. Lessee agrees to comply and acquaint its employees with such reasonable rules and regulations in the use of such Common areas as Lessor may adopt from time to time for the orderly and proper operation of said Common Areas.

Lessor reserves the right to make such other and further rules and regulations as in its judgment may be for the safety, care and cleanliness of the Office Building Project and for the preservation of good order therein. Lessee agrees to abide by these Rules and Regulations herein above stated and any additional rules and regulations, which are adopted hereafter.

Date: 12/11/14

Lessor's Initials: RS

Date: 12-1-14

Lessee's Initials: RD

Attachment: Lease (1740 : Second Amendment to Civic Center Lease)

EXHIBIT "C"**Waiver and Release.**

It is the express and understood intent, purpose, desire, and agreement of the parties in the event of termination for cause or expiration of the Lease term, that Lessee, on behalf of itself, its officers, heirs, agents, shareholders, employees, subcontractors, executors, successors and assigns, shall and does hereby release and discharge Lessor, and its respective elected and appointed officials, officers, directors, employees, attorneys, accountants, consultants, other professionals, and agents, from and against the following: any claims, penalties, actions or causes of action, obligations, and demands of any kind including but not limited to, any claims arising under the California Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the California Code of Civil Procedure), the Relocation Statutes and Regulations set forth in Chapter 16 (commencing with Section 7260) of Division 7 of the California Government Code and Subchapter 1 (commencing with Section 6000) Division 3 of Title 25 of the California Code of regulations, and claims for a "taking" or inverse condemnation arising under the United States or California Constitutions or under any federal, state, or local law, statute, ordinance, regulation, rule, official policy, court order, or common law (collectively, the "Released Claims").

The parties further acknowledge that the Released Claims include any claims for loss of business goodwill pursuant to Code of Civil Procedure §1263.510 et seq., for precondemnation damages and severance damages.

Date: 12-1-14Lessee's Initials: RD

Attachment: Lease (1740 : Second Amendment to Civic Center Lease)

EXHIBIT "D"

WORK LETTER/REQUIREMENTS FOR IMPROVEMENTS OR ALTERATIONS BY LESSEE

If Lessor shall permit Lessee to construct any interior improvements (subsequent to the initial improvements to be constructed by Lessor, if any) in the Premises or to have any work performed in the Premises at any time prior to or during the Lease term by a contractor retained by Lessee ("Lessee's Work"), then Lessee shall comply with the requirements set forth herein. If Lessee's Work has been properly authorized, Lessee will receive written approval and consent for alterations to the Premises. All alterations to the Premises, excepting movable furniture and trade fixtures, shall, at Lessor's option, become a part of the realty and belong to Lessor.

1. **SUBMITTAL OF PLANS.** Prior to commencing any work in the Premises, Lessee shall submit to Lessor for approval its proposed plans for the work. Without limiting the foregoing, Lessee shall provide:

(a) A separate scale drawing denoting all proposed construction and/or demolition, if necessary.

(b) A separate drawing for each trade proposing structural, electrical, mechanical, civil or landscaping modifications.

(c) Specify all dimensions and complete references to all work to be performed in the affected areas.

(d) If adding extra electrical or mechanical equipment, provide complete operating and maintenance specifications for each item.

2. **CHECKLIST.** With respect to each project, Lessor will provide Lessee with a checklist listing the items required to be furnished to Lessor in connection with the proposed work. Lessee shall furnish to Lessor prior to, during, or upon completion of Lessee's Work, as applicable, each of the items specified in the checklist attached hereto as Attachment 1.

3. **CONTRACTORS PROVIDING INTERIOR IMPROVEMENT SERVICES.**

(a) The contractor employed by Lessee and any subcontractors shall be (i) duly licensed in the state in which the Premises are located, and (ii) subject to Lessor's prior written approval, which approval shall not be unreasonably withheld. If more than one trade is employed on a single job, state law requires the services of a general contractor in addition to contractors for specialty work being performed.

(b) Each contractor shall provide proof of licensing as a general or specialty contractor in accordance with state law. Additionally, each contractor shall furnish proof of licensing in the city or municipality in which the construction related activity is to take place.

(c) Lessee shall use Lessor's subcontractor for mechanical, electrical, plumbing, roofing and roofing consultant if available at competitive rates.

(d) Lessee and Lessee's contractors shall comply with all Applicable Laws pertaining to the performance of Lessee's Work and the completed improvements and all applicable safety regulations established by Lessor or the general contractor.

(e) Prior to commencement of any work in the Premises, Lessee and Lessee's contractors (and any subcontractors) shall obtain and provide Lessor with certificates evidencing Workers' Compensation, public liability and property damage insurance in amounts and forms and with companies

satisfactory to Lessor. Each general contractor (and any subcontractor) employed on the Premises shall provide Lessor with a current certificate of insurance in effect for that contractor with a thirty day notice of cancellation or revocation clause. Insurance requirements are as follows:

- (i) Comprehensive General Liability with a \$1,000,000 Combined Single Limit covering the liability of Lessor and contractor for bodily injury and property damage arising as a result of the construction of the improvements and the services performed thereunder. Lessor and any Management Company shall be named as an additional insured.
- (ii) Comprehensive Automobile Liability with a \$1,000,000 Combined Single Limit covering Lessor and vehicles used by contractor (and any subcontractor) in connection with the construction of the improvements.
- (iii) Workers' Compensation and Employer's Liability as required by law, for employees of the contractor (and any subcontractors) performing work on the Premises.

(f) The following requirements shall be incorporated as "Special Conditions" into the contract between Lessee and its contractors and a copy of the contract shall be furnished to Lessor prior to the commencement of Lessee's Work:

- (i) Prior to start of Lessee's Work, Lessee's contractor shall provide Lessor with a construction schedule in "bar graph" form indicating the completion dates of all phases of Lessee's Work.
- (ii) Lessee's contractor shall be responsible for the repair, replacement or clean-up of any damage done by it to other contractors' work which specifically includes accessways to the Premises which may be concurrently used by others.
- (iii) Lessee's contractor shall accept the Premises prior to starting any trenching operations. Any rework of sub-base or compaction required after the contractor's initial acceptance of the Premises shall be done by Lessee's contractor, which shall include the removal from the Project of any excess dirt or debris.
- (iv) Lessee's contractor shall contain its storage of materials and its operations within the Premises and such other space as it may be assigned by Lessor or Lessor's contractor. Should Lessee's contractor be assigned space outside the Premises, it shall move to such other space as Lessor or Lessor's contractor shall direct from time to time to avoid interference or delays with other work.
- (v) Lessee's contractor shall clean up the construction area and surrounding exterior areas daily. All trash, demolition materials and surplus construction materials shall be stored within the Premises and promptly removed from the Premises and the Project and disposed of in an approved sanitation site.
- (vi) Lessee's contractor shall provide temporary utilities, portable toilet facilities, and potable drinking water as required for its work within the Premises and shall pay to Lessor's contractor the cost of any temporary utilities and facilities provided by Lessor's contractor at Lessee's

contractor's request.

- (vii) Lessee's contractor shall notify Lessor or Lessor's project manager of any planned work to be done on weekends or other than normal job hours.
- (viii) Lessee's contractor or subcontractors shall not post signs on any part of the Project or on the Premises.

4. COSTS.

(a) Lessee shall promptly pay any and all costs and expenses in connection with or arising out of the performance of Lessee's Work (including the costs of permits thereof) and shall furnish to Lessor evidence of such payment upon request.

(b) Except in the case of carpet replacement or repainting, Lessee shall pay Lessor an amount equal to five percent (5%) of the total hard costs of construction and installation of Lessee's Work as compensation to Lessor for review of plans, use of facilities and other miscellaneous costs of Lessor incurred as a result of such work.

5. CONTRACTOR'S BONDS. At Lessor's sole discretion, Lessor may require Lessee to obtain performance and completion bonds to insure Interior Work

6. MECHANIC'S LIENS.

(a) Lessee shall not suffer or permit to be enforced against the Premises or any part of the Project any mechanic's, materialman's, contractor's or subcontractor's lien arising out of any work of improvement, however it may arise.

(b) Lessee shall notify Lessor at least ten (10) days prior to the commencement of construction of any Lessee's Work and Lessor shall have the right to post and record a notice of no responsibility in conformity with applicable law. Within ten (10) days following completion of Lessee's Work, Lessee shall file a Notice of Completion and deliver to Lessor an unconditional release and waiver of lien executed by each contractor, subcontractor and materialman involved in Lessee's Work.

(c) In the event any lien is filed against the Project or any portion thereof or against Lessee's leasehold interest therein as a result of Lessee's work, Lessee shall obtain the release and/or discharge of said lien, within ten (10) days after the filing thereof. In the event Lessee fails to do so, Lessor may obtain the release and/or discharge of said lien and Lessee shall indemnify Lessor for the costs thereof, including reasonable attorney's fees, together with interest at the Applicable Interest Rate from the date of demand. Nothing herein shall prohibit Lessee from contesting the validity of any such asserted claim, provided Lessee has furnished to Lessor a lien release bond freeing the Premises from the effect of the lien claim.

7. INDEMNITY. Lessee shall indemnify, defend (with counsel satisfactory to Lessor) and hold Lessor harmless from and against any and all suits, claims, actions, loss, cost or expense (including claims for workers' compensation, attorney's fees and costs) based on personal injury or property damage, or otherwise (including, without limitation, contract and breach of warranty claims) arising from the performance of Lessee's Work. Lessee shall repair or replace (or, at Lessor's election, reimburse Lessor for the cost of repairing or replacing) any portion of the Building or item of Lessor's equipment or any of Lessor's real or personal property damaged, lost or destroyed in the performance of Lessee's Work.

8. BUILDING STANDARDS. All work shall conform to Lessor's established building standards and specifications. Lessee is required to make these standards part of the construction documents.

9. **ROOF PENETRATIONS.** If improvements penetrate the roof membrane, the penetrations will be sealed per Lessor/IRC roofing specifications and inspected by IRC to maintain roof warranty. The cost of inspection and all corrective work shall be borne by Lessee. Lessee shall use Lessor's original roofing contractor.

10. **BUILDING MODIFICATIONS.** Work will only be approved within the confines of a given space. Lessee will not be allowed to modify building exterior or mechanical and electrical service as provided to the building in common with other tenants.

11. **ELECTRICAL WORK.** All electrical work shall be approved from the unit space electrical panel only. Additional service requirements shall be secured only by direction of Lessor. Lessee shall use Lessor's original electrical contractor if available at competitive rates.

12. **SCHEDULE OF WORK.** Lessee shall be required to provide a schedule of all work to be performed, subject to Lessor approval. All costs to produce such schedule shall be borne solely by Lessee.

13. **CLEAN UP AND DISPOSAL OF CONSTRUCTION DEBRIS.** Building trash containers are provided for office generated trash only and are not to be used for disposal of construction-related materials and debris. Unapproved usage will result in a penalty assessment to the Lessee equal to the cost of an extra pick-up service as provided under the current rate schedule of regular trash removal service.

14. **INSPECTION BY LANDLORD.** Lessor reserves the following rights: (i) the right of inspection prior to, during and at completion of all construction and/or demolition, (ii) the right to post and record a notice of nonresponsibility in conformity with California law, and (iii) the right to order, if reasonable, a total stop to all improvements underway for non-compliance with any of the requirements hereof.

15. **GENERAL PROVISIONS.**

(a) If Lessor has agreed to provide an allowance toward the cost of tenant improvements (other than the initial Lessee Improvement Allowance), Lessor shall retain from such funds an amount determined by Lessor until Lessee has fully complied with the requirements hereof.

(b) All materials, work, installations and decorations of any nature whatsoever brought on or installed in the Premises before the commencement of the Term or throughout the Term shall be at Lessee's risk, and neither Lessor nor any party acting on Lessor's behalf shall be responsible for any damage thereto or loss or destruction thereof due to any reason or cause whatsoever.

(c) Nothing contained herein shall make or constitute Lessee as the agent of Lessor.

Attachment 1 to "Exhibit D"**ITEMS TO BE FURNISHED TO LESSOR FOR EACH WORK OF IMPROVEMENT**

1. Plan of Alterations for Lessor Approval.
2. Contractor(s), Address, Telephone Number, Contact Person.
3. Copy of Contractor's State and City Business License.
4. Copy of Building Permit.
5. Copy of Final Inspection and Signed Building Permit Cards.
6. Copy of Certificate of Insurance Naming The City of Laguna Hills and Essex Realty Management as Additional Insured. Insurance to include Comprehensive General Liability, Comprehensive Auto, Workers' Compensation, Employer's Liability and original Endorsement.
7. Signed Unconditional Lien Waiver in favor of Development Corporation.
8. Schedule of Work.
9. Copy of Completion and Payment Bond.
10. Architect's License and Expiration.
11. Copy of Permit Plans.
12. Copy of As-Builts.
13. Copy of Recorded Notice of Completion.
14. Certificate of Occupancy.
15. Evidence of Insurance for All-Risk/Builder's Risk Insurance to the Amount of Improvements.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018

TO: Mayor and Council Members

FROM: David Reynolds
Deputy City Manager

ISSUE: Proposed Resolution Re-Establishing and Adopting Facility Rental Rates for the Laguna Hills Hockey Rink and Skate Park Located at the Laguna Hills Community Center and Sports Complex.

RECOMMENDATION: That the City Council adopt a Resolution entitled: “A Resolution of the City Council of the City of Laguna Hills, California, re-establishing and adopting the Facility Rental Fees for the Laguna Hills Hockey Rink and Skate Park located at the Laguna Hills Community Center and Sports Complex, and finding that the action is statutorily exempt from the California Environmental Quality Act (CEQA) per Section 15273 of the CEQA Guidelines and Public Resources Code Section 21080(B)(8).”

SUMMARY:

Staff is recommending the City Council’s adoption of the attached resolution to set fees for rental use of the skate park and hockey rink facilities because of some clean-up work with the recent comprehensive reservation policies update, and to appropriately re-establish and adopt facility rental rates. Staff conducted research of the fees charged for similar facilities in Orange County and determined that the rates that City is charging is reasonable and appropriate. Staff is not recommending any changes to these rates as they were originally established by the City Council as described in this staff report.

BACKGROUND:

The rental fees for both the hockey rink and the skate park were originally established by minute action adoption of City Council Policy 314 by the City Council. Recently, the

Hockey Rink and Skate Park Rental Rates

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City Council adopted Resolution No. 2018-08-28-7. City Council's action was approval of staff's work effort to condense and update the City Council's reservation policies (309, 310, 311, 312, 313, 314 & 316) into one policy: Policy No. 317, "Public Facility Reservation & Use Policy." This resolution also rescinded all seven of the old policies which included Policy No. 314. Policy No. 317 now establishes that all rental fees and deposits are to be set by City Council resolution. Moreover, Chapter 8-04 ("Park and Recreation Facility Use Regulations") of the Laguna Hills Municipal Code, which was updated in 2015, also requires that rental fees and deposits are to be established by resolution of the City Council. Therefore, to appropriately re-establish and adopt facility rental rates, staff is recommending the City Council's adoption of the attached resolution to set fees for rental use of the skate park and hockey rink facilities (see Tables 1 and 2 below for the rates).

The rental rates of the hockey rink were established on January 11, 2000, with the City Council adoption of City Policy 314, and when the City Council was presented with proposed facility reservation fees and policies in anticipation of the opening of the Community Center and Sports Complex. In preparation of the January 11, 2000, meeting, staff conducted surveys throughout California on rental rates of similar facilities for comparative purposes. This information was presented to the City Council at this meeting. The rental rates for the hockey rink were established as follows per City Council Policy 314:

TABLE 1. HOCKEY RINK RENTAL RATES (<i>Rates per Hour</i>)					
	A RESIDENT NONPROFIT	B RESIDENT PRIVATE	C NON-RESIDENT NONPROFIT	D NON-RESIDENT PRIVATE	E COMMERCIAL
Daytime Use	\$25.00	\$30.00	\$40.00	\$50.00	\$85.00
Use of Hockey Facility with Lights	\$30.00	\$35.00	\$50.00	\$60.00	\$95.00

A few years after the establishment of the hockey rink fees, a rental fee for the skate park was set by the City Council's approval of amendments to City Council Policy 314 on July 22, 2003. Only a rental fee for the commercial category was established at that time to accommodate rentals for large commercial sponsored skating events. It is important to note that it has not been the practice of the City to rent our unsupervised public skate park to the general public.

Hockey Rink and Skate Park Rental Rates

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TABLE 2. SKATE PARK RATES

Skate Park Rental Fees (Commercial Use Only):

\$500 half-day rental fee

\$1,000 full day rental fee

During the 2009/10 – 2010/11 Biennial Budget period, staff was assigned a major plan to conduct cost recovery analysis on the facility rental rates, including outdoor facilities. On June 22, 2010, the City Council approved amendments to Policy 314 which updated rental fees based on staff's study. Staff's study focused on the costs to maintain rentable City facilities and a benchmark comparison of rental rates with other municipalities. There were no changes recommended to the hockey rink and skate park rental rates based on the 2010 fee study.

Staff conducted a survey of rental rates of other hockey rink and skate park facilities in the Orange County area. In regards to the hockey rink facilities, there are not a lot of municipal outdoor hockey rinks in the area that are being used for roller hockey. As a matter of fact, several cities have repurposed their facilities for other uses¹. For example, the City of San Juan Capistrano has turned over the management of its facility to Victory Sports. Victory Sports organizes sporting activity such as hockey but the majority of the time the rink is used for arena soccer. The City of San Juan Capistrano receives about \$12K per year in facility rental revenue from Victory Sports.

Another municipal hockey rink is located in West Covina and is used primarily for roller hockey. Some roller derby use is also permitted. The City of West Covina contracts with California Street Hockey² to manage the roller hockey leagues and use of the rink and the city receives a share of the rental revenue and league dues. The fees charged by California Street Hockey are \$75 per hour for non-league members and \$60 per hour for league members.

There are other non-municipal hockey rinks in the Orange County area. For instance, the Rinks Development Program launched in 2009 (The Rinks), and now consist of seven local hockey and skating facilities throughout Southern California. Four of the rinks are ice rinks (The Rinks – Anaheim ICE, The Rinks – Lakewood ICE, The Rinks – Westminster

¹ The City Council may recall that a few years ago four pickleball courts were painted on our hockey rink to introduce new sporting activity to the hockey rink because of decreased participation with roller hockey.

² California Street Hockey began managing the City of Laguna Hills Hockey Rink in 2000 and the City of Laguna Hills received a portion of revenue. The City no longer contracts with California Street Hockey for the management of the hockey rink facility because street hockey leagues and participation in the sport was declining at our facility.

Hockey Rink and Skate Park Rental Rates

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ICE, The Rinks – Yorba Linda ICE, and The Rinks - Poway ICE). The Rinks – Anaheim ICE is the official practice facility of the NHL's Anaheim Ducks. Three rinks are inline facilities (The Rinks – Corona Inline, The Rinks – Huntington Beach Inline and The Rinks – Irvine Inline) and charge \$125/hr. to rent the rink and charge a \$7 admission fee for public skating times during the week. The Laguna Hills hockey rink facility is also an inline skating facility; however, our surface is concrete and is at a lower standard than the polypropylene skating surfaces of the inline Rink facilities.

Staff also researched other skate park facilities in Orange County and found that, the majority, like ours, are unsupervised facilities and do not rent out the facility to the general public. Some of these facilities, like ours, do rent out the facility for commercial or filming purposes and the fee charged ranges from \$300 up to \$1,500 per day. There are two supervised skate park facilities in the immediate area. One is Etnies in Lake Forest and use of the park is free to residents. An annual fee of \$15 is charged to non-residents to use the Etnies skate park.

Another supervised skate park is located and operated by the City of Laguna Niguel. The City of Laguna Niguel charges \$40 for an annual pass for residents, \$80 for an annual pass for non-residents, and a \$10 one time pass to use its skate park.

Currently, the Laguna Hills hockey rink is used a few nights a week for a pickleball drop in play and one night per week for open skate for street hockey and skating. These are part of the City's recreation programs. The primary renter of the hockey rink facility is South Coast Roller Derby and they are charged \$40/hr. during the day and \$50/hr. (with lights) to rent the hockey rink facility. At times, we have had individuals rent the hockey rink for practice or play.

Also, last fiscal year the City did rent the skate park facility to Nike for commercial filming purposes.

Staff is not recommending any changes to the hockey rink and skate park rates as presented in Tables 1 and 2 in this staff report. Based on staff's research of other facilities, the fees that the City charges is reasonable and appropriate for the type facilities that are provided to the public.

Hockey Rink and Skate Park Rental Rates

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FISCAL IMPACT:

Last fiscal year the City received \$2,500 from Nike for rental of the skate park facility. Revenues received last fiscal year for rentals of the hockey rink totaled \$22,685. Rentals from South Coast Roller Derby was \$22,060 of this revenue with the balance coming from individuals renting the facility for practice from time to time.

ATTACHMENTS:

- LH - 2018 Resolution Re-Establishing and Adopting Certain Rental Rates for Recreational Facilities

RESOLUTION NO. 2018-11-27-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RE-ESTABLISHING AND ADOPTING THE FACILITY RENTAL FEES FOR THE LAGUNA HILLS HOCKEY RINK AND SKATE PARK LOCATED AT THE LAGUNA HILLS COMMUNITY CENTER AND SPORTS COMPLEX, AND FINDING THAT THE ACTION IS STATUTORILY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTION 15273 OF THE CEQA GUIDELINES AND PUBLIC RESOURCES CODE SECTION 21080(B)(8).

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, the facility rental fees for the Laguna Hills Hockey Rink and Skateboard Park located at the Laguna Hills Community Center and Sports Complex were originally established by the City Council's approval of City Council Policy No. 314, entitled "Athletic Field/Roller Hockey/Skate Park Reservation Policy," on October 12, 1999; and

WHEREAS, City Council Policy No. 314 was recently rescinded by the City Council's adoption of Resolution No. 2018-08-28-7; and

WHEREAS, rental fees for public park and facility use are now required to be established by City Council resolution pursuant to Chapter 8-04 of the Laguna Hills Municipal Code and City Council Policy No. 317; and

WHEREAS, the rental fees for the hockey rink and skate park should, therefore, now be re-established and adopted by resolution of the City Council; and

WHEREAS, there are no proposed changes to the established rental fees for the hockey rink and skate park facilities; and

WHEREAS, the Rental Categories for facility use are established by City Council Policy No. 317.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. Adoption of Recitals. The foregoing recitals set forth above are true and correct and are incorporated by reference herein.

SECTION 2. Adoption of Roller Hockey Facility Rental Fees. The following rental fees are hereby re-established and adopted and shall apply to use of the hockey rink; and the City Council hereby finds and determines that the re-established and adopted rental

rates and user fees and charges established herein are reflective of market rates in Orange County:

Type of Use	RENTAL CATEGORIES				
	A. Resident Nonprofit	B. Resident Private	C. Non-Resident Nonprofit	D. Non-Resident Private	E. Commercial
Daytime Use	\$25.00	\$30.00	\$40.00	\$50.00	\$85.00
Use of Hockey Facility with Lights	\$30.00	\$35.00	\$50.00	\$60.00	\$95.00

SECTION 3. Adoption of Skate Park Facility Rental Fees. The following rental fees are hereby re-established and adopted and shall apply to use of the skateboard park; and the City Council hereby finds and determines that the re-established and adopted rental rates and user fees and charges established herein are reflective of market rates in Orange County:

Skate Park Rental Fees (Commercial Use Only):

\$500 half-day rental fee

\$1,000 full day rental fee

SECTION 4. Effective Date: The adopted facility rental rates established pursuant to this Resolution shall take effect and shall be implemented upon adoption of this Resolution.

SECTION 5. Environmental Exemption. The adoption of this Resolution is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15273 of CEQA Guidelines and Section 21080(b)(8) of the Public Resources Code; and in accordance with such determination, the City Clerk is hereby directed to file a Notice of Exemption upon adoption of this Resolution.

SECTION 6. Amendments to Comprehensive Fee Schedule. The City Council hereby authorizes and directs the City's Finance Director to update the Comprehensive Fee Schedule in accordance with the facility rental rates established herein.

SECTION 7. Severability. If any adjusted user fee, rate, or charge adopted by this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such adjusted fee, rate, or charge shall be deemed a separate, distinct, and independent provision of this Resolution, and such holding shall not affect the validity of the remaining user fees, rate, and charges adopted or revised herein. The City Council hereby declares that it would have adopted the Resolution and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED, APPROVED, AND ADOPTED this 27th day of November 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2018-11-27-X adopted by the City Council of the City of Laguna Hills, California, at
a Regular Meeting thereof held on the 27th day of November 2018, by the following
vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018

TO: Mayor and Council Members

FROM: Jennifer Lee
Assistant City Clerk

ISSUE: Second Reading & Adoption of Proposed Ordinance Adopting Zoning Text Amendment to Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code to Facilitate Construction of the Moulton Niguel Water District Operations Center and Site Consolidation Project

RECOMMENDATION: That the City Council adopt an Ordinance entitled: “An Ordinance of the City of Laguna Hills, California, approving and adopting Zone Text Amendments (ZTA) to Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code amending Table 9-32.040 to remove the 25 percent open space requirement in the C/PI Zone for government uses, revising Chapter 9-32 by adding new Section 9-32.050 to permit outdoor storage in the C/PI Zone for government uses, and revising Chapter 9-32 by adding new Section 9-32.060 (Fences, Walls and Hedges) to permit fences up to eight (8) feet high in the C/PI Zone for government uses.”

SUMMARY:

At the November 13, 2018 meeting, the Planning Agency/City Council considered a request by Moulton Niguel Water District and took the following actions: conducted a Public Hearing; adopted Resolution No. PA2018-11-13-1 approving Site Development Permit/Conditional Use Permit/Variance/Zone Text Amendment 6-15-3234, a request by Moulton Niguel Water District to operate a government facility at 26161 Gordon Road; considered the Final Initial Study/Mitigated Negative Declaration for the project; made responsible Agency findings; adopted a Mitigation Monitoring and Reporting Program; and introduced an Ordinance for first reading.

The proposed Ordinance would modify the Zoning Code to facilitate the construction of

Second Reading & Adoption of Ordinance Adopting ZTA -MNWD

November 27, 2018

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the project by increasing the allowable fence height from six feet to eight feet, allow outdoor storage in the C/PI zone, and eliminate the twenty-five percent requirement for open space. The proposed modifications would be limited so that the standards would only apply to government agencies, such as a public utility.

A copy of the proposed Ordinance and the Staff Report for the introduction of the Ordinance, including attachments, are included as attachments to this report. The City Council introduced the Ordinance by a vote of 4-0. It is in order to adopt the Ordinance.

ATTACHMENTS:

- November 13, 2018 Introduction to Ordinance Staff Report and Attachments including Hot Envelope Item
- Proposed Ordinance



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 13, 2018

TO: Mayor/Chair and Council/Agency Members

FROM: David Chantarangsu
Community Development Director

ISSUE: Site Development Permit/ Conditional Use Permit/ Variance/ Zone Text Amendment No. 6-15-3234, a Request by Moulton Niguel Water District to Operate a Government Facility Consisting of a New Operations Center Involving the Construction of Three New Buildings Totaling 64,664 Square Feet for Administrative Offices, Field Crew Operations, and Vehicle Repair, Renovation of Two Existing Buildings Totaling 21,735 Square Feet for Warehousing and Storage Purposes, Expansion and Relocation of Fueling Facilities, Vehicle and Equipment Storage, and Utilizing Existing Non-Compliant Driveway Access on Property Located at 26161 Gordon Road, and Consideration of Zoning Text Amendments to Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code, Amending Table 9-32.040 to Remove the 25 Percent Open Space Requirement for Government Uses, Revising Chapter 9-32 by Adding a New Section 9-32.050 to Permit Outdoor Storage in the C/PI Zone for Government Uses, and by Adding a New Section 9-32.060 (Fences, Walls and Hedges) to Permit Fences Up to Eight (8) Feet High for Government Uses

RECOMMENDATION: (1) That the Planning Agency and City Council conduct a Joint Public Hearing to consider the proposed Operations Center Project;

(2) That the Planning Agency and City Council consider the Final Initial Study/Mitigated Negative Declaration for the Moulton Niguel Water District Operations Center and Site Consolidation Project; make responsible Agency Findings; and adopt a Mitigation Monitoring and Reporting Program;

(3) That the City Council introduce for first reading, read by title only, and waive

further reading of an Ordinance entitled: “An Ordinance of the City of Laguna Hills, California, approving and adopting Zone Text Amendments (ZTA) to Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code amending Table 9-32.040 to remove the 25 percent open space requirement in the C/PI Zone for government uses, revising Chapter 9-32 by adding new Section 9-32.050 to permit outdoor storage in the C/PI Zone for government uses, and revising Chapter 9-32 by adding new Section 9-32.060 (Fences, Walls and Hedges) to permit fences up to eight (8) feet high in the C/PI Zone for government uses.”; and

(4) That the Planning Agency adopt a Resolution entitled: “A Resolution of the Planning Agency of the City of Laguna Hills, California, approving Site Development Permit/Conditional Use Permit/Variance/Zone Text Amendment 6-15-3234, a request by Moulton Niguel Water District to operate a government facility consisting of a new operations center involving the construction of three new buildings totaling 64,664 square feet for administrative offices, field crew operations, and automobile vehicle repair, renovation of two existing buildings totaling 21,735 square feet for warehousing and storage purposes, expansion and relocation of fueling facilities, vehicle and equipment storage, and utilizing existing non-compliant driveway access on property located at 26161 Gordon Road in the Community/Private Institution (C/PI) Zoning District.”

SUMMARY:

The Moulton Niguel Water District (“MNWD” or the “District”) has filed a development application for Conditional Use Permit/Site Development Permit/Variance/Zoning Text Amendment No. 6-15-3234, for the relocation and consolidation of MNWD’s administrative facilities and operations functions establishing a new headquarters for the Moulton Niguel Water District in Laguna Hills, at 26161 Gordon Road in the Community/Private Institution (C/PI) Zoning District.

The proposal includes the following:

- Demolition of miscellaneous buildings totaling +/- 7,000 square feet;
- Renovation of existing buildings totaling 21,735 square feet;
- Construction of three new buildings totaling 64,664 square feet,

MNWD Operations Center and Site Consolidation Project

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- Construction of various site improvements including 349 parking spaces (113 fleet vehicle spaces/ 236 employee and public spaces), over 123,000 square feet of landscaping including a +/- 25,000 square foot water quality basin;
- Construction of a drought tolerant demonstration garden.

MNWD has requested that the City Council approve modifications to the Zoning Code that would facilitate the construction of its Project. The proposed modifications would:

- Increase the allowable fence height from six (6) feet to eight (8) feet;
- Allow outdoor storage in the C/PI zone;
- Eliminate the 25 percent requirement for open space.

The proposed modifications would be limited so that the standards would only apply to government agencies, such as a public utility. In addition, due to the property's location at the end of the Gordon Road cul-de-sac which results in a unique property shape, MNWD has filed a variance request with as part of its development application since it only maintains a 12-foot wide property frontage for access to the public street. The property's small street frontage is considered a special circumstance which prevents it from meeting the City's 48-foot wide driveway requirement, and is a unique condition of the property when compared to other properties in the C/PI zone.

MNWD has the primary responsibility for carrying out the proposed activity, therefore pursuant to state law under the California Environmental Quality Act (CEQA – Public Resources Code 21000, *et seq.*), MNWD completed the required CEQA environmental review process, and adopted a Mitigated Negative Declaration (MND) on July 13, 2018, as Lead Agency. The City is a Responsible Agency pursuant to CEQA and must consider the MND in deciding whether or not to approve MNWD's development application.

Staff has reviewed the Development Code ("Code") requirements, as well as General Plan issues, goals, and strategies, and has determined that the proposed project, subject to conditions of approval, will not result in any significant adverse impacts to the public, health, safety and general welfare.

BACKGROUND:

MNWD provides essential services to more than 170,000 people and numerous commercial and institutional customers in Laguna Niguel and Aliso Viejo as well as portions of Dana Point, Laguna Hills, Mission Viejo, and San Juan Capistrano. MNWD

MNWD Operations Center and Site Consolidation Project

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operates and maintains more than 700 miles of pipelines and other infrastructure required to provide drinking water and fire protection services to the various cities and communities the District serves. MNWD is also responsible for collecting and treating wastewater generated by the residents, businesses, and institutions within the District's service area, using more than 500 miles of pipelines, three wastewater treatment plants, and other miscellaneous infrastructure. Additionally, MNWD operates and maintains a recycled water distribution system consisting of nearly 150 miles of pipeline and two advanced water treatment plants to provide an alternative water source to cities and communities. In addition to the conveyance and treatment infrastructure, MNWD is responsible for numerous storage tanks, pump stations, and control facilities at more than 70 different sites necessary to provide these essential services on a continuous basis to customers. This combined infrastructure requires continuous monitoring, regular maintenance activities, and frequent emergency response to ensure the people and businesses of its cities and communities have access to drinking water, fire protection, recycled water when needed, and on-going collection and treatment of wastewater for the benefit of public health and safety.¹

Within the City of Laguna Hills, MNWD operates and maintains hundreds of miles of potable water, recycled water, and wastewater pipelines to provide service to the residents of Laguna Hills. In addition to the underground pipelines, MNWD also operates and maintains three potable water reservoirs, one recycled water reservoir, three potable water pump stations, three potable water takeout facilities, and four pressure reducing stations. Additionally, MNWD has three wastewater pump stations to collect and pump wastewater to wastewater treatment plants. (MNWD) Attachment 1 identifies the various facilities located within the City operated by MNWD. (MNWD GIS 2018)

In order to provide the services described above, MNWD is currently operating within two separate noncontiguous sites that combined include approximately 40,000 square feet of building area with more than 130 employees. MNWD's administrative facility is currently located at 27500 La Paz Road in Laguna Niguel. MNWD advises that this facility was constructed nearly 45 years ago with one building expansion in 1982. MNWD operations at 26161 Gordon Road in Laguna Hills currently include field crew and engineering offices, materials and equipment storage, and other activities related to the operations of the District. (LSA 2018)

¹ Final Initial Study/ Mitigated Negative Declaration - Moulton Niguel Water District Operations Center and Site Consolidation Project, LSA 2018, 2-1.

MNWD Operations Center and Site Consolidation Project

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MNWD was formed in 1960 pursuant to California Water Code Sections 34000, *et seq.* and is a “local agency” subject to California Government Code Sections 53090, *et seq.*, which govern the applicability of building and zoning ordinances to local agencies. For purposes of Laguna Hills Municipal Code (LHMC) Title 9 – Zoning and Subdivisions (the “Zoning Code”), MNWD is a “Government agency”, which is defined as any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, authority, district, or other government unit (LHMC 9-04.070). MNWD is an instrumentality of the state since it was formed pursuant to state regulation as described above.

Gordon Road Property Description

The subject property is a +/- 11.3 acre site located east of Moulton Parkway and south of Alicia Parkway at 26121 Gordon Road and has been an operational site for MNWD for more than 50 years. The property is roughly 500 feet wide at its widest point and 1,300 feet long, and is irregularly shaped. Topographically, the property falls roughly 36 feet from south to north over the length of the site. Access to the Project site is provided via a gated main entrance on Gordon Road, a cul-de-sac street. The driveway has one egress lane and one ingress lane. The property has 12 feet of frontage on Gordon Road, but utilizes an easement over an adjoining property to maintain its existing 24 foot wide driveway. As shown in, Table 1 (Existing Buildings & Fuel Storage) below and further identified in Attachment 2 (Existing Uses Site Plan), the site is occupied by eight structures that are primarily located on the south side of the property and are one-story. Table 1 provides a list of the existing structures and their corresponding sizes or square footage.

Since the City’s incorporation, the property has had two zoning designations including “General Agricultural” (A1), and “Community/ Private Institution District” (C/PI). The City’s General Plan Land Use designation on the site has been Public/ Institutional since the City adopted its first general plan in 1994. The property’s history is further described below in more detail.

Site Improvement History

The property was initially used as a wastewater treatment plant that served the Laguna Hills area in the 1960s. After the treatment plant was decommissioned in the early 1970s, MNWD began to use the property for various operations facilities. The Project area is highly altered from its natural, undeveloped, original state and currently contains two dry, open areas that were previously used as settling basins for the wastewater

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treatment plant. These basins were later converted to artificial water features. The water features, however, were drained in response to drought conditions in 2014. No part of the site is currently involved in the production, storage or transmission of water or wastewater, although the existing Field Operations building includes office areas for employees involved in those functions.²

In 1997, the City issued a Conditional Use Permit to MNWD to construct the existing +/- 11,500 square foot Field Operations building. Since most of the structures presently located on the site pre-date the City's incorporation, the City has limited information concerning the development history of the property other than the building improvements constructed in 1997. MNWD has indicated that most of the existing structures on the Project site were constructed nearly 35 years ago and are becoming increasingly inefficient and maintenance intensive, do not comply with current building code requirements, and are serving at overcapacity.

In addition to the uses and improvements identified in Table 1 below, MNWD maintains medium and heavy duty equipment and vehicles on the site that are involved in the Districts maintenance operations, in addition to the construction materials used to maintain its facilities and infrastructure throughout its service territory.

TABLE 1 – EXISTING BUILDINGS & FUEL STORAGE

Building	Units
Gas Pumps and Underground Fuel Storage	10,000 gallons (2,000 gallons diesel and 8,000 gallons unleaded)
Warehouse/Storage	10,215 sf
Electrical Shop	424 sf
Pipe Storage Shed	400 sf
Meter/Maintenance Shop	1,464 sf
Telemetry	2,080 sf
Vehicle Maintenance	2,625 sf
Field Operation Building ¹	11,520 sf

¹This building is the Field Operation Building in the existing setting. The Project proposes to renovate the building and use it as a warehouse.

Description of Surrounding Properties and Improvements

Attachment 3 is an aerial image identifying the Project site and its surrounding uses which include single-family residences, attached condominium residences, private slope areas, and Mandeville Park. Access to the site is only available from Gordon Road which

² Final Initial Study/ Mitigated Negative Declaration - Moulton Niguel Water District Operations Center and Site Consolidation Project, LSA 2018, 2-1.

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also serves the adjoining condominiums. Known as “Crestline,” the condominium development consists of 372 homes built in the 1980s under the jurisdiction of the County of Orange. Single-family homes closest to the site include homes on Los Cerros Drive (7 homes), La Cienega Street (17 homes), Rio Grande Avenue (11 streets), and Mandeville Drive (9 homes).

Attachment 4 depicts distances between adjacent residences and the Project site along with the grade separations that exist. Bordering the Project site on three sides are privately owned slopes that provide substantial separation between the property from and adjoining single-family residences and Mandeville Park. Residences nearest to the site are located on Los Cerros Drive at the end of the cu-de-sac.

The five residential properties on Los Cerros Drive (26085 through 26082 Los Cerros Drive) are 50-80 feet from the site and are 12 feet to 27 feet higher than the site. The 13 residences that directly back up to the site on La Cienega Street are between 150 feet to over 250 feet away from the project site and are +/- 30 to +/- 80 feet higher. There are 10 residences on Rio Grande that do not directly abut the Project site and are separated from it by the Rio Grande public right-of-way, as well as one of the private slopes. These residences are nearly 350 feet away and are situated +/- 80 feet higher than the Project site. For the nine residences that directly abut the Project site on Mandeville Drive, the separation distance to the Project site varies from +/- 270 feet to over +/- 400 feet. These homes are also grade separated from the Project site between +/- 50 and +/- 95 feet. Similarly, Mandeville Park is situated +/- 100 feet higher than the Project site and over 300 feet away.

Homes in the Crestline community do not maintain the grade separations or distances from the Project that exist for most of the single-family residences as described above. Rather, the nearest homes in Crestline are only separated from the Project site by a 30 foot road (Imperial Drive) that provides internal circulation within a portion of the Crestline community. These residences are also at nearly at the same grade as the Project site. The exception is a limited number of homes in Crestline that abut the Project site to the west. These are situated roughly 20 feet higher than the Project site.

Property History - Laguna Hills General Plan

The City’s first General Plan was adopted in June, 1994 at which time the subject property was identified as “Public Institutional”. The 1994 General Plan provided that the primary purpose of the Public Institutional land use designation was to provide areas in the City where public and institutional activities could be carried out, including

MNWD Operations Center and Site Consolidation Project

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those of government agencies, special districts, and public and private utilities. Within the current Laguna Hills General Plan, the description of the Public/ Institutional General Plan Land Use designation remains relatively the same as it did in 1994.

Property History - Zoning

Upon incorporation in 1991, the City adopted the zoning and development standards of the County of Orange until the City's own zoning designations could be created. The designation given to MNWD's Gordon Road property under the County's jurisdiction was General Agricultural (A1) which permitted the development of public and private utility buildings and structures. The property's zoning history under the County is otherwise unknown to staff. In 1995, the City adopted its official zoning map which designated the property's zoning as Community/ Private Institutional (C/PI). Concurrently, the City also adopted the development standards for the C/PI zone, which identified uses that included schools, churches, fire/police stations, multi-family housing, group housing, government facilities, recreational facilities, hospitals, and a limited number of commercial uses such as restaurants and offices.³ In 1995, the City's development standards included the following requirements for the development of government facilities:

Item	Standard
Maximum Building Area (Floor Area Ratio)	.50
Maximum Lot Coverage	40%
Building Height	50 Feet
Minimum Open Space	25%
Minimum Landscape Area	25%

These same standards are in effect today and are found in Chapter 9-32 of the Zoning Code.

According to the Zoning Code, "government facility" means a building or area housing offices, and/or support facilities for any seat of any federal, state, county, city, or district agency providing services to the general population (LHMC 9-04.070). The operation of

³Laguna Hills Municipal Code Chapter 9-19 (1995)

MNWD Operations Center and Site Consolidation Project

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government facilities proposed in the C/PI zone are subject to Conditional Use Permit pursuant to LHMC Chapter 9-32.

PROJECT DESCRIPTION

MNWD requests that the City amend Zoning Code and approve its development application to enable it to relocate its administrative office/headquarters currently located at 27500 La Paz Road in the City of Laguna Niguel to the Project site in the City of Laguna Hills.

The proposed Project consists of the construction of three new buildings totaling 64,664 square feet, renovation of existing buildings totaling nearly 23,000 square feet, expanded on-site vehicle fueling capacity, demolition of five existing miscellaneous buildings (totaling nearly 7,000 square feet), and the completion of substantial site improvements consisting of on-site landscaping, parking, exterior parking lot and site lighting, site re-grading, water quality improvements, site drainage, and other on and off-site infrastructure improvements that support the Project. Off-site improvements include the extensions of water, sewer, and recycled water laterals to the site, the construction of a new 21-inch storm drain connection to an existing storm drain line, and a new traffic signal located at the intersection of Moulton Parkway and Gordon Road as identified on the City's Traffic Signal Master Plan (2016). Table 2 below describes the proposed new and renovated buildings, along with a description of the proposed additional fuel storage.

Table 2 – Renovated and Proposed Buildings

Building	Units	Status
Two-Story Building (Operations Center)	46,257 sf	New
One-Story Building (Shop Uses)	12,500 sf	New
One-Story Building (Fleet Uses)	5,907 sf	New
Gas Pumps and Fuel Storage ¹	20,000 gallons (12,000 gallons diesel and 8,000 gallons unleaded)	Expansion and Relocation
Warehouse/Storage	10,215 sf	Renovation
Warehouse Building ²	11,520 sf	Renovation

Notes:

¹ The additional 10,000 gallons of diesel fuel will be stored in aboveground or underground storage tanks.

² The Warehouse Building is identified as the Field Operations Building in the existing setting (Figure 2.5). The building will be renovated and used for storage after Project implementation.

sf = square feet

New development proposed includes a 46,257-square-foot, two-story Operations Center building (Building 1) located on the northern portion of the Project site near the site's entrance. With implementation of the Project, MNWD anticipates a total of 166 employees at the Operations Center. The estimated largest shift would be public utility

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staff at 106 employees. The Operations Center building would be constructed using contemporary building materials blended with traditional building forms, such as rectangular buildings with simple roof forms. Overall, the architecture includes varied facades consisting of painted concrete walls and pillars, masonry walls with skim coat finish, spandrel glass panels, walnut wood veneer, standing seam metal roofs, and a neutral color pallet.

The Project also includes a new 12,500-square-foot, single-level Shops building (Building 2) that contains various maintenance shop uses, employee lockers, laundry area, restrooms, break room, and standby (resting) facilities to accommodate staff members to rest/sleep when waiting or “on standby” for operational response service calls. A new 5,907-square-foot, single-level Fleet service building (Building 3) is intended for fleet vehicle repair and maintenance and includes three service bays, a fabrication and welding shop area, various storage rooms, office, and restrooms. The proposed Shops and Fleet buildings are located to the south of the Operations Center building, and would measure 22 feet and 28 feet in height, respectively. The proposed materials, proportion of elements, and architectural character of the Shops and Fleet service buildings are similar to the Operations Center building. A proposed back-up emergency generator has also been incorporated into the proposed Shops building.

In addition to the proposed new construction, renovation of two structures will occur at Buildings 4 and 5 which total approximately 21,735 square feet in size. Building 4 is 10,215 square feet and currently used for warehouse and storage, and building 5 is 11,520 square feet and currently used as a field operations building. Both buildings would be refurbished and repurposed for warehouse and storage uses. Exterior renovation activities include exterior and rooftop painting and façade improvements to modify building access. The proposed building materials include neutral earth tone colors that would complement the new buildings and the surrounding environs.

Moreover, the Project proposes to relocate an existing fuel island and its associated fuel pumps just east of Building 3 approximately 25 feet southeast from the current location and expand the fuel storage capacity from 10,000 to 20,000 gallons. Currently, the site contains 8,000 gallons of unleaded fuel storage and 2,000 gallons of diesel fuel along with three pumps. The Project would increase the fuel storage capacity by an additional 10,000 gallons of diesel fuel. The additional fuel storage would support emergency response activities, allow continued operations in the event of a major power outage at the Project site, or serve as a potential fuel supply depot for other MNWD sites equipped with back-up emergency generators.

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Customary delivery of materials, fuel, and equipment will occur between 7:00 a.m. and 5:00 p.m., Monday through Friday. Off-hours deliveries would only occur when materials are needed to repair infrastructure beyond “normal” working hours. MNWD expects to receive six (6) deliveries per day on average.

Site Design Elements

While the primary features of the proposed site plan are the new Operations Center building (Building 1) and Shops Building (Building 2), there are a host of other site improvements proposed that ensure the property is physically capable of supporting the proposed development, ensure the uses proposed at the site can be accommodated, and better integrate the property and its use into its surroundings. Table 3 below compares the Project’s proposed standards with those of the C/PI zone. The specific elements of the Project are also described in more detail below in Table 3.

Table 3 - Project Consistency with C/PI Development Standards

	LHMC Development Standards	Proposed
Minimum lot size	1 acre	11.3 acres
Minimum lot width	Not specified	Approx. 400 ft.
Minimum lot depth	100 ft.	Approx. 1300 ft.
Maximum lot coverage	40%	17.5%
Maximum density	0.50 FAR (246,114 sq. ft.)	0.172 FAR (84,663 sq. ft.)
Maximum building height	50 ft.	37.8 ft.
Minimum setback – front	25 ft.	132 ft.
Minimum setback – side	20 ft.	160.5 ft
Minimum setback – rear	20 ft.	20.96 ft.
Minimum open space	25%	0%
Minimum landscape area	25%	25.02%
Min. bldg. separation		
Main → Main	20 ft.	89.25 ft.
Main → Accessory	2.5 ft.	N/A
Accessory → Accessory	2.5 ft.	N/A

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- Grading and Drainage

Grading will take place on the north half of the site in order to create the building pads and associated parking and landscape areas for new construction. In addition, MNWD will be constructing a +/- 25,000 square foot detention/bioretention basin in the property's northwest corner to collect and retain Project storm water for water quality purposes - this feature serves to help meet the Project's water quality obligations, as well as provide additional site landscaping. Also, around certain portions of the perimeter of the site, MNWD will be constructing small concrete channels to convey offsite runoff that the property has historically accepted from surrounding properties into the basin. A number of in-ground on-site drains will also convey runoff from within the property into the basin. Stormwater runoff will leave the site via a new 21-inch concrete storm drain pipe to be constructed in Gordon Road, and connected to an existing 21-inch storm drain located in Moulton Parkway. Drainage details can be found on Sheet C6.0 through Sheet C6.5 of the Project's Civil Engineering Plans. The total grading quantities indicated are estimated to be over 41,000 cubic yards of raw cut, nearly 32,000 cubic yards of raw fill, and over 9,000 cubic yards of possible export depending on soil conditions.

- Landscaping and Open Space

The LHMC requires an open space and landscaping coverage requirement of 25 percent each – a total of 50 percent. "Open Space" as defined by the Zoning Code means any parcel or area of land or water essentially set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests, of land adjoining or neighboring such open space (LHMC 9-04). "Landscape" as defined by the LHMC includes plants, and other natural materials such as rock and wood chips, and decorative features, including sculpture, patterned walks, fountains, and pools. MNWD's landscape plan primarily focuses on the use of tree planting, and ground cover to enhance the visual quality of the site. Consistent with other projects the City has approved, the Project's bioretention basin, located in the Project's northeast corner, is included in staff's landscape calculations.

As proposed, the Project includes just over 25 percent of landscaping at 123,651 square feet in compliance with the LHMC. Attachment 5 identifies the landscape areas within the Project.

In addition to the 25 percent landscape requirement described above, the C/PI zone standards require that a minimum of 25 percent of the Project site be allocated toward

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open space on the site. As authorized by Chapter 9-90 of the LHMC, MNWD has proposed to eliminate the open space requirement for government facilities in the C/PI zone, and has not proposed any open space on the site, which is discussed further below in the Analysis section of this report.

- Screening of Equipment, Materials, and Parking Areas

In accordance with the requirements of the LHMC, the Project is required to provide screening of certain improvements. Parking lots that abut residential uses must maintain an extensive buffer consisting of a minimum five (5) foot-wide planter and a masonry wall/fence with screening vegetation planted in conjunction with the wall (LHMC 9-44.060(G)(11)). Parking lots located across from a residential area shall provide a landscaped berm and wall combination to screen the lot. The existing landscaping surrounding the Project site, including the northern and western perimeter, would be protected in place with additional trees, shrubs, and ornamental landscaping proposed together with new fencing including block and wrought iron, chain link, or chain link with vinyl fencing. MNWD's plan proposes the use of eight (8) foot tall fences, whereas the current permitted maximum height is six (6) feet. This increase in fence height is proposed to be accomplished through a revision to the Zoning Code MNWD has filed as part of its Application discussed in more detail below.

- Perimeter Fencing and Walls

The existing site is currently bounded by an existing six (6) foot tall chain-link fence topped with razor wire. In order to make the site more secure, and consistent with the federal Department of Homeland Security guidelines for risk management of public facilities, the Project would include improved perimeter security by installing new eight (8) foot tall black vinyl-covered chain-link fencing along with eight (8) foot tall wrought iron and masonry fencing.

In addition, access to the interior of the Project site would be restricted by an eight (8) foot tall wrought iron fence with access gates along the perimeter of the proposed detention basin and along the main Project drive and east of the administrative parking lot to separate the public access area from areas of the site that are restricted to MNWD employees and equipment. The Project also includes an eight (8) foot tall CMU screening wall around the drying and material bins at the northeastern corner of the site this area. Attachment 6 provides an illustration of the proposed fence plan layout for the Project site.

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- Parking

Pursuant to the LHMC, the parking requirement for the MNWD property is subject to the parking ratios for individual uses set forth in Table 9-44.A in the Zoning Code. To accurately calculate the required parking for all uses on the site, the parking was determined based on the parking requirements for public utility, assembly, and general office uses contained in the Zoning Code. Table 4 below summarizes the City's parking requirements and the proposed parking supply provided for the Project.

Per the City's parking requirements, public utility facilities must provide one stall for each two employees in the largest shift, plus one stall for each vehicle in connection with the use. With implementation of the proposed Project, MNWD would have a total of 166 employees at the Operations Center with the estimated largest shift for public utility staff identified as 106 employees on site. The parking demand was therefore, based on the 106 employees, which would require 53 employee spaces. MNWD also proposes parking for 113 fleet/work vehicles, and a parking stall is required for each. Extensive use of pull-through stalls have been included to limit the noise associated with fleet vehicle backup notifications as much as possible.

Parking demand associated with the Shops, Fleet Service building, and warehouse buildings are already accounted for in the public utility parking demand described above. These buildings support the public utility function with storage space for parts and repair equipment. The employees associated with these spaces work primarily on public utility equipment in the field and access these buildings to complete necessary repairs, and may also have a workstation in Building 1. Vehicles transporting materials to and from the warehouse buildings or ensuing repairs within the Fleet Service building would retain an assigned fleet parking space and no additional parking demand was calculated for these spaces. Table 4 below summarizes the Project's required parking.

- Circulation

Existing access to the MNWD site is provided on Gordon Road from a +/- 24 foot-wide driveway where access is controlled using an electric gate. Adjacent properties that make up the Crestline community also maintain access driveways on Gordon Road. Beyond the entrance to the site, MNWD currently provides a +/- 30 foot wide drive aisle. MNWD will slightly increase the driveway width to 28 feet and provide additional travel lanes beyond the Project entrance since the driveway width is constrained by adjoining driveways that serve the Crestline community. The Zoning Code requires a driveway width of 48 feet consisting of two lanes each for ingress and egress. MNWD

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has filed a variance due to the special circumstances that exist of the property's location at the end of the Gordon Road cul-de-sac coupled with the shape of the property that results in a 12-foot wide property street frontage. This existing condition prevents MNWD from providing the minimum 48 foot wide driveway required for this Project.

Table 4 - Parking Summary

Use/ Building	LHMC Requirements	Total	Parking Required	Parking Provided
Public Utility • 5,907 SF Vehicle Repair • 21,735 SF Warehouse • 12,500 sf Maintenance Shop	1 stall/2 employees in the largest shift	106 Employees	53	53
	1 stall/vehicle used in connection with the use	113 Vehicles	113	113
Operations Center • Assembly use • Office use • Public Utility use	1 stall/3 fixed seats or 1 stall/35 SF within main auditorium where no seats are provided*	4,572 SF	131	131
	1 stall/300 SF - GFA	11,558 SF	39	52
	Accounted for in public utility rate	30,127 SF	0	
Total Parking			336	349
Passenger parking			223	236
Fleet vehicle parking			113	113

*The board room and lobby area would have a combined area of 4,572 square feet of public assembly use resulting in an additional 131 parking spaces at a parking rate of one space per 35 square feet (Table 9-44.A).

- Construction Phasing

Project construction is anticipated to take approximately 17 months and is expected to be completed in several overlapping increments. Due to the unique nature of the grading on site, MNWD anticipates grading the Project site in distinct phases with grading operations occurring over a two to four-month initial period, with building construction commencing thereafter and continuing for an additional 12 to 13 months. The basic construction phases would include the following: site preparation; grading; trenching/utility installation; building construction; paving; and architectural coating.

MNWD Operations Center and Site Consolidation Project

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MNWD's goal is to construct the new buildings while ensuring it maintains the ability to use its facility without interruption. Some operations, though, may need to temporarily move off-site to accommodate specific construction events.

Buildings 1 (Operations Center), 2 (Shops Building) and 3, (Fleet Building), are expected to be constructed first while employees would remain in the existing buildings on the east end of the property. Once the new buildings, the associated parking, and landscaping located near each building or parking area are completed, employees occupying the existing buildings would be moved into the new buildings, allowing existing buildings to be refurbished or demolished as specified, along with the associated parking areas, and landscaping.

Description of Proposed Zoning Text Amendments

As mentioned above, MNWD's Project includes three requests to modify the City's Zoning Code, and include: (1) fence height, (2) outdoor storage, and (3) the amount of open space required for the project. LHMC Chapter 9-90 provides the authority for applicants to make requests of the City Council to consider modifications to the City's Zoning Code. Specifically, MNWD's requests propose to make the following changes to the Zoning Code:

- Table 9-32.040: An amendment of the C/PI zoning text to remove the requirement for 25 percent open space for "Governmental" uses. MNWD proposes that the open space requirement be changed so that no open space be provided for projects involving Governmental uses. Attachment 7 depicts the current language in the Zoning Code at Table 9-32.040, and the proposed language.
- Section 9-32.050: MNWD proposes to add a new section to Chapter 9-32 to permit outdoor storage in the C/PI zone. Presently, the only zone where outdoor storage is allowed is in the City's Mixed Use Zone which accommodates all of the light industrial and manufacturing uses located in the City. MNWD proposes to add new language that allows outdoor storage in the same manner as is currently permitted in the Mixed Use Zone for Governmental uses in the C/PI District.
- 9-32.060 Fences, walls and hedges: MNWD proposes to add a new section to Chapter 9-32 to permit fences up to eight (8) feet high to add greater security to its facility. The proposed amendment is very narrow in that it would only apply to Governmental uses in the C/PI zone.

AUTHORITY

New buildings and uses in excess of 20,000 square feet are subject to approval of a Site Development Permit by the Planning Agency pursuant to LHMC 9-92.080(G). The proposed improvements encompass over 64,000 square feet of new building improvements, and will remodel over 21,000 square feet of existing building improvements. As a Government Agency, the operation of government facilities by MNWD, when subject to the City's Zoning Code, require Conditional Use Permit approval by the Planning Agency pursuant to LHMC 9-32.020. Further, Variances from the City's development standards, such as the proposed substandard driveway width, are subject to the approval of a Variance pursuant to LHMC 9-92.080(F).

In addition to the approval of items under the authority of the Planning Agency, MNWD has also requested that the City Council consider amendments to the Zoning Code that would modify development regulations pertaining to fence height, outdoor storage, and required Project open space. Property owners may file a request to modify the City's Zoning Code pursuant to LHMC Chapter 9-90, and are subject to the approval of an ordinance by the City Council.

The proposed Project is unique in that it requires action by both the City Council and Planning Agency. Normally, new development is approved by the Planning Agency in its quasi-judicial role. However, for this Project, MNWD has also requested that the City Council consider modifications to the City's Zoning Code, which is considered a legislative action (i.e. the creation of a new law or modification of existing laws). Because only the City Council can undertake legislative actions, it is necessary for both the Planning Agency and City Council to consider the Project at a joint public hearing.

PROJECT ANALYSIS

MNWD is governed by California Water Code Sections 34000, *et seq.*, including California Government Code Sections 53091 and 53096. Government Code Section 53091 requires each local agency (such as MNWD) to comply with the building and zoning ordinances of the city in which the agency is situated (Gov. Code Sections 53090, 53091(a)). The Government Code, however, provides exemptions from city building and zoning ordinances in certain situations. Specifically, a city's building ordinances do not apply to "the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, wastewater...by a local agency." (Gov. Code Section 53091(d)). Additionally, a city's zoning ordinances do not apply to "the location or construction of facilities for the production, generation, storage, treatment,

CITY OF LAGUNA HILLS MEMORANDUM

DATE: November 13, 2018

TO: Mayor and City Council Members/ Chair and Planning Agency Members

FROM: David Chantarangsu, Community Development Director

SUBJECT: Joint City Council/ Planning Agency Agenda Item: Site Development Permit/ Conditional Use Permit/ Variance/ Zone Text Amendment No. 6-15-3234 - Moulton Niguel Water District

After the printing of the agenda materials, errors were discovered in the proposed ordinance and resolution.

- 1) Section 2 of the proposed Resolution correctly indicates that a copy of the MMRP is attached to the Resolution as Attachment "A"; however, there is no Attachment "A" face page attached to the Resolution, nor is a copy of the MMRP attached to the Resolution. A copy of the MMRP must be attached to the Resolution as Attachment "A".
- 2) The Section numbers to the Resolution (Packet Page 304), are listed in the wrong order and must be renumbered. As published, the Resolution incorrectly reads, "SECTION 1, SECTION, 2, SECTION 4, and so forth. Section 4 should be Section 3.
- 3) Under Section 3 of the Resolution (Packet Page 304), (erroneously published as Section 4), it correctly states that "As demonstration of the Project's compliance with the General Plan, the Project Initial Study/Mitigated Negative Declaration approved by the District on July 13, 2018 identified 32 General Plan policies with which the Project is consistent at Table 4.10-A of the Project IS/MND which is attached to this Resolution as Attachment B." However, there is no Attachment B to the Resolution and approval of Table 4.10-A as part of the recommended action, which is legally required in order for the requisite General Plan findings of consistency to be made, is not attached to the Resolution. Also, there is no Attachment "B" face page to the Resolution.
- 4) Section 4 of the Resolution (packet Page 337) appears to have been published in error and is incomplete. This appears to be improper carry-over from first draft language and should be deleted. The correct provision on this topic is the current Section 5 – "This Resolution shall not take effect until and unless Ordinance No. 2018-8 takes effect."

- 5) Section 2 of the Ordinance (Packet Page 340), incorrectly reads as follows: “ A copy of the MMRP is attached to **this Resolution** as Attachment “A”. It should read, “... **this Ordinance**....”. Again, the Attachment “A” MMRP document, in full, must be attached to both the Resolution and the Ordinance, as both the Planning Agency and the City Council are required to adopt the MMRP.

Staff notes that the City Council’s/ Planning Agency’s approval of the Agenda item would be subject to the City Clerk making the noted corrections to the referenced documents, and including the appropriate attachments as identified above.

In addition, staff has received a comment letter and email addressing project concerns with noise and traffic. These are attached for the City Council’s/ Planning Agency’s reference.

Attachments

1. Kawasaki Letter
2. Helgason Email

RECEIVED

City of Laguna Hills
 City Council
 24035 El Toro Road
 Laguna Hills, CA 92653
 Attention: City Clerk

November 2, 2018

NOV 07 2018

CITY OF LAGUNA HILLS

Re: NOTICE OF JOINT HEARING OF THE PLANNING AGENCY AND CITY COUNCIL
 Hearing date: November 13, 2018, 7:00pm, or as soon thereafter as possible.

The Planning Agency and City Council for the City of Laguna Hills should deny the following: Site Development Permit/ Conditional Use Permit/ Variance/ Zone Text Amendment (SDPM/CUP/VAR/ZTA) No. 6- 15-3234 – (please refer to the 'Notice' for the rest of the text of the second paragraph. If this request is not followed, then please address and mitigate and compensate for the following issues concerning Moulton Niguel Water District (MNWD) property located at 26161 Gordon Road, Laguna Hills, CA (the property):

1. The problem of increased traffic on Gordon Road due to:
 - a. Construction of 3 new buildings,
 - b. renovation of 2 buildings,
 - c. expansion of and relocation of fueling facilities, vehicle and equipment storage and
 - d. utilizing existing driveway access at the property located at 26161 Gordon Road.
2. The problem of parking for the construction workers, all outside contractors associated with and any employees of Moulton Niguel Water District (MNWD).
3. Containment and disposal of any and all materials associated with the repair and storage of equipment and vehicles including toxic and non-toxic materials such as but not limited too:
 - a. Motor and or diesel oil,
 - b. Brake fluid,
 - c. Gasoline,
 - d. Diesel fuel
 - e. Transmission fluid and or gear oil
 - f. And any product used in the operation of the vehicles and equipment.
4. Containment of all flammable liquids used at the facility and all necessary safeguards in the event of a fire or spill.
5. All issues regarding all noise created by the expanded facility and the construction of the expanded facility and the operation after the construction of the expanded facility.
6. All issues of loss of use of any and all property at Crestline due to the construction and operation of 'the property'.
7. Compensation for loss of value due to the expansion at 'the property'. The MNWD shall pay for before and after valuations. The person or persons performing the valuations shall be selected by an impartial 3rd party subject to the approval of the Crestline HOA. Also, a similar evaluation shall be made before and after any accident or incident at 'the property' that can cause a loss of value of the Crestline property. Compensation shall be paid to all property owners at Crestline.

8. MNWD shall pay for any and all attorneys fees associated with any of the above issues to prevent MNWD from forcing the Crestline HOA to litigate beyond its means. Another words, forcing the Crestline HOA to sue MNWD beyond Crestlines ability to pay for legal counsel.



Thomas T. Kawasawa for Thomas T. Kawasawa and Mona K. Kawasawa
Owners of 24316 Sage Court #179, Laguna Hills, CA 92653.

Cc: Crestline Homeowners Association
23046 Avenida de la Carlota, Suite 700
Laguna Hills, CA 92653

From: Kurt Helgason [mailto:bler57@att.net]

Sent: Tuesday, November 13, 2018 4:59 PM

To: David Chantarangsu <dchantarangsu@lagunahillsca.gov>

Subject: RE: Responses To Email Regarding The Concerns the New Moulton Niguel Water District Poses To The Mandeville Neighborhood

Importance: High

Hi, David –

Thank you for the considerable time spent with me today discussing the concerns that I have regarding the Moulton Niguel Water District project. As I stated during our conversation, I would appreciate your support voicing these issues during the meeting tonight.

The matters that are of primary importance to my husband and I and those neighbors that line the perimeter of the Moulton Niguel Water District project are as follows:

- 1.) **Noise.** The level of activity has gradually increased since the neighborhood was notified of the District's intention to expand their operations.

Truck noise –backup beepers, air brakes, etc – starts at seven o'clock, much earlier than in the past. Once construction begins, it will be untenable. As

I stated in my email of April 13, 2018, my husband is a pilot and keeps very odd hours due to his flight schedules. He needs his rest and peace and quiet are paramount to achieving that sleep.

If this project is to move forward, the hours of operation of loud or heavy equipment has to start much later. Also, PERMANENT SOUND BARRIERS need to be erected

to mitigate what noise will be generated with the added activity. A 10' wall surrounding the project needs to be erected to provide a buffer.

- 2.) **Unightly layout of the site.** This is a major concern to the property owners as the eyesore at the bottom of the canyon is **a detriment to our property values**. Homes like ours are no longer being built especially with our lot sizes. I have noticed that the appreciation of our houses has not increased as much as other similar neighborhoods and attribute that to the water district's ugly appearance.

If this project is to move forward, 20' Cypress trees have to be planted in front of the 10' perimeter wall to hide ugly buildings and to provide an additional sound barrier.

- 3.) **Traffic.** The increase in cars and trucks going in and out of the facility all day long will definitely cause issues with the two above stated issues – noise and unsightliness.

The items noted above are not news to you or the Council. As elected officials of the City of Laguna Hills, I am asking for your support in favor of rectifying these matters as I see them becoming a very large problem if not properly addressed now.

Respectfully,
Constance Helgason
24641 Mandeville Drive
Laguna Hills

ORDINANCE NO. 2018-X

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING AND ADOPTING ZONING TEXT AMENDMENTS (ZTA) TO TITLE 9 (ZONING AND SUBDIVISIONS) OF THE LAGUNA HILLS MUNICIPAL CODE AMENDING TABLE 9-32.040 TO REMOVE THE 25 PERCENT OPEN SPACE REQUIREMENT IN THE C/PI ZONE FOR GOVERNMENT USES, REVISING CHAPTER 9-32 BY ADDING A NEW SECTION 9-32.050 TO PERMIT OUTDOOR STORAGE IN THE C/PI ZONE FOR GOVERNMENT USES, AND REVISING CHAPTER 9-32 BY ADDING A NEW SECTION 9-32.060 (FENCES, WALLS AND HEDGES) TO PERMIT FENCES UP TO EIGHT (8) FEET HIGH IN THE C/PI ZONE FOR GOVERNMENT USES

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code (LHMC) establishes allowable uses of property within all zoning districts in the City; and

WHEREAS, the Moulton Niguel Water District (MNWD) has filed an application with the City's Community Development Department to construct the Moulton Niguel Water District Operations Center and Site Consolidation Project on its property located at 26161 Gordon Road ("Project"); and

WHEREAS, in association with its development application, MNWD has requested that the City Council amend the City's Municipal Code to facilitate the development of its Operations Center project by removing the 25 percent open space requirement in the C/PI zone for governmental uses, permit outdoor storage for governmental uses, and permitting fences up to eight (8) feet high for governmental uses, so that it may more efficiently and effectively provide water and sewer services within its service area which includes the City of Laguna Hills; and

WHEREAS, MNWD served as lead agency for the environmental review, analysis, and approval of the Project pursuant to the requirements of the California Environmental Quality Act (Public Resources Code §§ 21000 et seq.) ("CEQA") and the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15000 et seq.); and

WHEREAS, pursuant to CEQA and the CEQA Guidelines, on July 13, 2018, MNWD adopted a Mitigated Negative Declaration ("MND") for the Project and approved the Project; and

WHEREAS, the City of Laguna Hills is a "responsible agency" for the Project pursuant to the requirements of CEQA and the State CEQA Guidelines; and

WHEREAS, the City Council of the City of Laguna Hills ("City Council") has independently reviewed and considered the MND and all other related documents in the record before it; and

WHEREAS, the Planning Agency and City Council have held a duly noticed joint public hearing and considered public comments and written and oral information and testimony presented by City staff, community residents, and other interested parties at a duly noticed public hearing held on November 13, 2018.

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. The City Council has reviewed and considered the information contained in the MND, and all supporting documentation, copies of which are on file at the City of Laguna Hills, Community Development Department, and are incorporated by reference as though set forth fully herein. Based on this review, the City Council concurs with the lead agency's findings regarding the Project. The City Council finds that any comments received by MNWD regarding the Project have been examined and have been determined not to modify the conclusions of the MND. The City Council finds that there is no substantial evidence in the administrative record supporting a fair argument that the Project may result in significant environmental impacts. The MND and supporting documentation reflect the independent judgment and analysis of the City Council. The City Council approves and adopts the Mitigation Monitoring and Reporting Program ("MMRP") prepared for the Project and approved by MNWD, which is incorporated by reference as though fully set forth herein. A copy of the MMRP is attached to this Ordinance as Attachment "A" The City Council directs staff to file a Notice of Determination with the Orange County Clerk/Recorder's Office within five (5) days of adoption of this Ordinance pursuant to Sections 15094 and 15096(i) of the State CEQA Guidelines. The documents and materials that constitute the record of proceedings on which this Ordinance and the above findings have been based are located at the City of Laguna Hills, Community Development Department. The custodian for these records is the City of Laguna Hills Director of Community Development, and is located at 24035 El Toro Road, Laguna Hills, California 92653.

SECTION 3. The following findings for approving Zoning Text Amendment No. 6-15-3234 are hereby made in accordance with Section 9-92.080(A) of the Laguna Hills Municipal Code:

- (1) That the zoning text amendment is consistent with the intent of the goals and policies of the General Plan as a whole, and is not inconsistent with any element thereof.

The Public/Institutional land use designation, as defined by the General Plan, is established for public and institution activities, including local, State, and federal agencies, special districts, and public and private utilities. Appropriate

uses within the Public/Institutional land use designation include public and private schools, City facilities, and other public, quasi-public, and institutional uses. The goals and policies of the General Plan seek to ensure development is compatible and interdependent with neighborhoods by minimizing or avoiding impacts to surrounding neighborhoods and land uses through context-sensitive site design and architecture.

By eliminating the open space requirement and permitting outdoor storage of fleet vehicles and other equipment the Project can incorporate pull-through parking spaces in the site design to avoid noise associated with vehicle reverse notifications reducing acoustical impacts. Additionally, the on-site storage of materials allows MNWD to provide reliable and responsive water and wastewater treatment services necessary and allows for more timely responses to emergencies, which helps protect City infrastructure.

Further, the General Plan recognizes the critical nature of water resources relative to regional growth. Adding taller fencing around the sites perimeter would provide the appropriate physical hardening of the facility securing critical infrastructure and supporting a safe environment.

Open space is defined as any area of land set aside for public or private use or enjoyment or the use and enjoyment of owners, occupants, or their guests. The open space requirement is primarily intended for a government institution that also provides public interface such as a library or civic center. As a water and wastewater utility provider, the MNWD's operation facility predominantly operates and maintains essential infrastructure requiring space for fleet vehicles, emergency response equipment, and critical materials storage and is not primarily intended for public interface.

- (2) That the zoning text amendment is necessary to prescribe reasonable controls and standards for affected land uses to insure compatibility and integrity of those uses with other established uses.

The proposed zoning text amendment (ZTA) deleting the open space requirement, permitting outdoor storage, and increasing fence height for governmental use within the C/PI zoning district allows MNWD to improve the functionality and efficiency of existing uses and further ensures the continuous ability to operate and provide essential services to the community. Noise impacts are minimized by permitting the outdoor storage of fleet vehicles, emergency response trailer, and traffic control equipment. The site design incorporates pull-through parking spaces and eliminates noise associated with vehicle reverse notifications that would typically occur within an enclosed structure. Community services are enhanced by improving upon the quality of public infrastructure and services for residents and business owners by permitting on-site storage of materials conceding to reliable and responsive water and wastewater treatment services and more timely responses to emergencies. Further, taller fencing around the sites perimeter would provide

the appropriate physical hardening of the facility securing critical infrastructure and a safe environment.

Finally, a minor site development permit is required for outdoor storage as an accessory use for Governmental use within the C/PI zoning district subject to the Community Development Director's review and approval, to demonstrate compliance with parking, landscaping, and other related code requirements ensuring compatibility with surrounding uses.

- (3) That the zoning text amendment is necessary to provide reasonable property development rights while protecting environmentally sensitive land uses and species.

MNWD is a public utility facility that provides critical water and wastewater services to the City of Laguna Hills and the surrounding communities, which currently is serving at overcapacity and becoming increasingly inefficient, maintenance intensive, and noncompliant with current building code requirements. The zoning text amendment for Governmental uses within the C/PI zoning district would allow MNWD to construct the Project and ensure that it can provide effective and efficient water and wastewater services to the community by consolidating its administrative and operational functions. The Project site is currently developed and used by the MNWD for their Operations Center. Per the MND, all potentially significant impacts would be reduced to less than significant with the incorporation of mitigation measures. Thus, development of the Project would not result in any significant environmental effects, including any significant effects to environmentally sensitive land uses.

- (4) That the zoning text amendment is necessary to correct discrepancies in standards or policies within the plan area or land use category.

The C/PI zoning was inherited from the County of Orange when the City of Laguna Hills was incorporated and encompasses approximately twelve (12) sites totaling 157 acres within the City. Of the twelve (12) sites, four are occupied as school sites, five (5) are Caltrans and railroad ROW, and the remaining three (3) are occupied by the MNWD and its supporting facilities. The only other occupied governmental use within the City of Laguna Hills is the City's Civic Center which is in the Urban Village Specific Plan and zoned Village Commercial (VC). The open space requirement is for public or private use or enjoyment or the use and enjoyment of owners, occupants, or their guests and is primarily intended for a government institution that also provides public interface such as a library or civic center. As a water and wastewater utility provider, the MNWD's operation facility predominantly operates and maintains essential infrastructure requiring space for fleet vehicles, emergency response equipment, and critical materials storage and is not primarily intended for public interface. Further, the need for timely responses to emergencies and security measures in accordance with the federal Department of Homeland Security is imperative to the operation. Therefore, the ZTA is necessary to correct the discrepancies between the various

government institutions and the need for public interface, emergency operations, and security measures.

- (5) That the zoning text amendment is necessary to protect the general health, safety, or general welfare of the community as a whole.

MNWD is a public utility facility that provides critical water and wastewater services to the City of Laguna Hills and the surrounding communities, which currently is serving at overcapacity and becoming increasingly inefficient, maintenance intensive, and noncompliant with current building code requirements. The combined MNWD infrastructure requires continuous monitoring, regular maintenance activities, and frequent emergency responses to ensure the people and businesses of its cities and communities have access to drinking water, fire protection, recycled water when needed, and on-going collection and treatment of wastewater for the benefit of public health and safety. The ZTA for Governmental use within the C/PI zoning district would facilitate the Moulton Niguel Water District Operations Center and Site Consolidation Project, and allow MNWD to consolidate and provide facility improvements that would serve as the new headquarters and represent an essential expansion providing more efficient functionality, required upgrades to its current operations to ensure continual effectual and efficient services to the community, and provide appropriate physical security of the facility securing critical infrastructure and a safe environment, which combined is necessary to continue to protect the general health, safety, or general welfare of the community as a whole.

SECTION 4. Title 9 of the Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9.32 (C/PI Community Institution District), Table 9-32.040 (Community/Private Institution Development Standards) is hereby amended by deleting the 25% minimum open space requirement for Governmental uses to read as follows:

Table 9-32.040

COMMUNITY/PRIVATE INSTITUTION DEVELOPMENT STANDARDS

Item	Governmental	Commercial	Institutional	Residential-HD
Minimum open space	N/A	25%	15%	N/A

SECTION 5. Title 9 of the Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9.32 (C/PI Community Institution District), is hereby amended by adding a new Section 9-32.050 (Outdoor Storage) to read as follows:

9-32.050 Outdoor Storage.

Outdoor storage for Governmental uses shall be permitted as an accessory use, subject to the following provisions:

- A. A minor site development permit is required for outdoor storage as an accessory use.
- B. A dimensioned site plan shall be submitted to the Community Development Director for review and approval, which demonstrates compliance with parking, landscaping, and other related code requirements.
- C. Outdoor storage of materials shall be enclosed by three walls and a roof open to the interior of the property. Outdoor storage of equipment shall be covered but may remain open on all four sides. Equipment shall include but not be limited to:

- Emergency Water Trailers
- Emergency Fuel Trailers
- Hose-to-Hose Trailers
- Backhoe(s) and Trailer(s)
- Portable Generators and Pumps
- Emergency Response Trailers
- Confined Space Entry Trailers
- Traffic Control Equipment
- Dump Trucks

Drying beds used to dry soil recovered from pipeline repairs are not required to be covered.

- D. Outdoor storage is prohibited in the front setback.
- E. Outdoor storage, and screening for outdoor storage, is prohibited in required parking stalls.
- F. Items stored or stacked shall not be higher than six feet.
- G. The Community Development Director shall have the authority to review and approve minor exceptions or alternatives consistent with the intent of this section.

SECTION 6. Title 9 of the Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-32 (C/PI Community / Private Institution District), is hereby by amended by adding a new Section 9-32.060 (Fences, walls and hedges) to read as follows:

9-32.060 Fences, walls and hedges.

For Governmental uses, fences, walls and hedges shall not exceed eight (8) feet in height. Such fencing may be chain link in areas outside of the main entrance to the property.

SECTION 7. This Ordinance shall take effect on December 28, 2018, the 31st day following the adoption of this Ordinance by the City Council.

SECTION 8. This Ordinance shall not take effect unless and until Resolution No. PA2018-11-13-1 approving CUP/SDP/VAR No. 6-15-3242 takes effect.

SECTION 9. Upon the effective date of this Ordinance, the provisions hereof shall supersede any inconsistent or conflicting provisions of the Laguna Hills Municipal Code.

SECTION 10. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 11. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this 27th day of November 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing Ordinance No. 2018-X was duly introduced and
placed upon its first reading at a Regular Meeting of the City Council on the 13th
day of November 2018, and that thereafter, said Ordinance was duly adopted and
passed at a Regular Meeting of the City Council held on the 27th day of
November 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Attachment: Proposed Ordinance (1730 : Second Reading & Adoption of Ordinance Adopting ZTA -MNWD)

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) ss
 CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
 AND PUBLICATION

MELISSA AU-YEUNG, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. 2018-X, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING AND ADOPTING ZONING TEXT AMENDMENTS (ZTA) TO TITLE 9 (ZONING AND SUBDIVISIONS) OF THE LAGUNA HILLS MUNICIPAL CODE AMENDING TABLE 9-32.040 TO REMOVE THE 25 PERCENT OPEN SPACE REQUIREMENT IN THE C/PI ZONE FOR GOVERNMENT USES, REVISING CHAPTER 9-32 BY ADDING A NEW SECTION 9-32.050 TO PERMIT OUTDOOR STORAGE IN THE C/PI ZONE FOR GOVERNMENT USES, AND REVISING CHAPTER 9-32 BY ADDING A NEW SECTION 9-32.060 (FENCES, WALLS AND HEDGES) TO PERMIT FENCES UP TO EIGHT (8) FEET HIGH IN THE C/PI ZONE FOR GOVERNMENT USES

on the 22nd day of November 2018, was published in summary in the Saddleback Valley News, and on the 6th day of December 2018, was published in summary in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the 21st day of November 2018, and the 7th day of December 2018, caused to be posted in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
 Laguna Hills Community Center
 La Paz Center

MELISSA AU-YEUNG, CITY CLERK
 Laguna Hills, California

Attachment: Proposed Ordinance (1730 : Second Reading & Adoption of Ordinance Adopting ZTA -MNWD)

The seal of the City of Laguna Hills is a circular emblem. It features a central illustration of a person holding a torch, with a sun rising in the background. The words "CITY OF LAGUNA HILLS" are inscribed around the top inner edge of the seal, and the year "1991" is at the bottom.

Attachment A

Adopted Mitigation

Monitoring Program

(Adopted by the MNWD Board of Directors – July 13, 2018)

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures		Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
Section 4.1: Aesthetics				
AES-1:	Maintenance of Construction Barriers. Prior to issuance of grading permits, the City of Laguna Hills Director of Community Development, or designee, shall verify that construction plans include the following requirement: During construction, the Construction Contractor shall ensure, through appropriate postings and daily visual inspections, that no unauthorized materials are posted on any temporary construction barriers and that any such temporary barriers are maintained in a visually attractive manner. In the event that unauthorized materials or markings are discovered on any temporary construction barrier, the Construction Contractor shall remove such items within 48 hours.	Moulton Niguel Water District/ Construction Contractor	City of Laguna Hills Director of Community Development, or designee	Prior to the issuance of grading permits/during construction
AES-2:	Comprehensive Lighting Plan and Final Photometric Plan. Prior to issuance of a building permit, the Moulton Niguel Water District (MNWD) shall prepare a comprehensive lighting plan and a Final Photometric Plan. The lighting plan shall be prepared by a qualified illumination engineer and shall address all aspects of lighting, including infrastructure, on-site driveways, safety, signage, and promotional lighting, if any. In conjunction with the Comprehensive Lighting Plan, MNWD shall also prepare a Final Photometric Plan. The Final Photometric Plan shall be reviewed and approved by the City of Laguna Hills Director of Community Development, or designee, prior to issuance of a building permit. In accordance with Municipal Code 9-40.170, Lighting, of the City of Laguna Hills Municipal Code, the Final Photometric Plan shall show evidence that all lighting is shielded or recessed and directed downward and away from adjoining properties and that direct glare and reflections are contained within the property lines. In accordance with Municipal Code 9-44.060, Design Standards for Parking Facilities, of the City of Laguna Hills Municipal Code, lighting in the uncovered parking areas shall be designed such that they produce a minimum of 0.4 foot-candle on paved general use areas and an average of 1 foot-candle on paved high use areas. The foot-candle uniformity ratio shall meet the standard of an average/minimum of 4:1 in general use areas and 3:1 in high use areas.	Moulton Niguel Water District/ Construction Contractor	City of Laguna Hills Director of Community Development, or designee	Prior to the issuance of a building permit
Section 4.2: Agriculture and Forest Resources				
The proposed Project would not impact agricultural or forest resources, and no mitigation is required.				

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures		Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
Section 4.3: Air Quality	CM-AQ-1	Dust Control Measures. In compliance with South Coast Air Quality Management District (SCAQMD) Rules 402 and 403, the Moulton Niguel Water District (MNWD) Assistant General Manager, or designee, shall include these standard construction measures for construction plans and shall require the construction contractor to implement the following measures:	Moulton Niguel Water District/ Construction Contractor	Prior to the commencement of construction activities/during Project construction
	CM-AQ-2	Dust Control - o Apply soil stabilizers to inactive areas. - o Prepare a high wind dust control plan and implement plan elements and terminate soil disturbance when winds exceed 25 miles per hour (mph). - o Stabilize previously disturbed areas if subsequent construction is delayed. - o Water exposed surfaces and haul roads three times per day. - o Cover all stockpiles with tarps. - o Replace groundcover in disturbed areas quickly. - o Reduce speeds on unpaved roads to less than 15 mph. Exhaust Emissions Measures. The Moulton Niguel Water District (MNWD) Assistant General Manager, or designee, shall include these requirements in construction bid documents and construction plans and shall require the construction contractor to implement the following measures: Exhaust Emissions - o All off-road construction equipment-vehicles shall be equipped with a Tier 2 or higher engine with Level 1 diesel particulate control devices, as required by the California Air Resources Board's (ARB) Off-Road Diesel Regulation. Per Section 2449(d)(4) of the ARB regulation, all off-road diesel fleet equipment must be reported to ARB using the Diesel Off-road Online Reporting System (DOORS) and all equipment must be labeled with the Equipment Identification Number (EIN). These requirements shall be included in applicable bid documents and successful contractor(s) must demonstrate the	Moulton Niguel Water District/ Construction Contractor	Prior to the commencement of construction activities/during Project construction

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures	Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
ability to supply such equipment. A copy of DOORS reporting forms and EIN labels shall be available upon request at the time of mobilization of each applicable unit of equipment. - Require 90-day low-nitrogen oxides (NO_x) tune-ups for off-road equipment. - Give preference to contractors using equipment with oxidation catalysts, soot traps, or other modern control technology. - Use low emission mobile construction equipment. The property owner/developer shall comply with ARB requirements for heavy construction equipment. - Maintain construction equipment engines by keeping them tuned. - Avoid unnecessary idling by shutting off engines that are expected to idle for more than five minutes. - Utilize existing power sources (power poles) when available			
CM-AQ-3 Volatile Organic Compound (VOC) Control Measures. In compliance with South Coast Air Quality Management District (SCAQMD) Rule 1113, the Moulton Niguel Water District (MNWD) Assistant General Manager, or designee, shall include these standard construction measures for construction plans and shall require the construction contractor to implement the following measures: VOC Control Measures - Minimize the amount of paint used by using pre-coated, pre-colored and naturally colored building materials. - Use high transfer efficiency painting methods such as HVLP (high volume low pressure) sprayers and brushes/rollers where possible. - Use SCAQMD-required low-VOC coatings where practical.	Moulton Niguel Water District/ Construction Contractor	Moulton Niguel Water District Assistant General Manager, or designee	Prior to the commencement of construction activities/during Project construction
Section 4.4: Biological Resources CM-BIO-1 Cooper's Hawk Nest Avoidance. In the event that construction activities occur between February 15 and August 15, the Moulton Niguel Water District (MNWD) Assistant General Manager, or designee, (or its contractor) shall retain a qualified biologist (a professional biologist that is familiar with local birds and their nesting	Moulton Niguel Water District	Moulton Niguel Water District Assistant General Manager, or designee	In the event that construction activities occur between February 15 and August 15/prior to the

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures	Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
behaviors) to conduct a nesting bird survey no more than 3 days prior to commencement of construction activities. The nesting survey shall include the Project site and areas immediately adjacent to the site that could potentially be affected by Project-related construction activities such as noise, human activity, and dust. If active Cooper's hawk nesting is observed within 500 feet (ft) of the designated construction area prior to construction, the biologist shall establish suitable buffers around the active nests (e.g., as much as 500 ft [subject to the recommendations of the qualified biologist]), and the buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Prior to commencement of grading activities and issuance of any building permits, the MNWD Assistant General Manager, or designee, shall verify that all Project grading and construction plans include specific requirements regarding the requirements of the Fish and Game Code Section 3503, that preconstruction surveys have been completed and the results reviewed by staff, and that the appropriate buffers (if needed) are noted on the plans and established in the field with orange snow fencing.			commencement of grading activities and the issuance of any building permits
BIO-1: Jurisdictional Resources/Riparian Habitat Preservation and Restoration. Prior to the issuance of any grading permits, the Moulton Niguel Water District (MNWD) shall coordinate with the San Diego Regional Water Quality Control Board (RWQCB) and the California Department of Fish and Wildlife (CDFW) regarding their potential jurisdiction over the on-site drainage. If the RWQCB and/or CDFW elect to assert jurisdiction over the on-site drainage, MNWD shall also obtain all applicable permits/agreements/certifications from the San Diego RWQCB and the CDFW that are required for direct or indirect impacts on areas within these agencies' jurisdictions. The Applicant shall be obligated to implement/comply with mitigation measures required by the resource agencies regarding impacts on their respective jurisdictions. If the CDFW asserts jurisdiction over the drainage channel, they may consider the Project's proposed concrete channel to be adequate mitigation for permanent (0.11 acre [ac]) and temporary (0.04 ac) impacts to the streambed and associated riparian habitat. Alternate mitigation may be the purchase of mitigation credits from an	Moulton Niguel Water District	Moulton Niguel Water District Assistant General Manager, or designee	Prior to the issuance of any grading permits

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures	Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
approved mitigation bank, mitigation through an in-lieu fee program, or mitigation of permanent and temporary impacts in the form of restoration. If restoration is required, construction of the Project's proposed concrete channel would most likely be acceptable mitigation for the 0.04 ac of temporary impacts. Mitigation (restoration) for permanent impacts would most likely occur at an off-site location on applicant-owned lands or another location agreeable to the CDFW. The likely ratios at which the CDFW may require permanent impacts to be mitigated may vary from 1:1 (no net loss) to as high as 3:1. In the event that the San Diego RWQCB asserts jurisdiction over the drainage channel, they may consider the Project's proposed concrete channel to be adequate mitigation for permanent (0.10 ac) and temporary (0.04 ac) impacts to Waters of the State. Alternate mitigation may be the purchase of mitigation credits from an approved mitigation bank, mitigation through an in-lieu fee program, or mitigation of permanent and temporary impacts in the form of creation of Waters of the State. If creation is required, construction of the Project's proposed concrete channel would most likely be acceptable mitigation for the 0.04 ac of temporary impacts. Mitigation (creation) for permanent impacts would most likely occur at an off-site location on applicant-owned lands or at another location agreeable to the RWQCB. The likely ratios at which the RWQCB may require permanent impacts to be mitigated may vary from 1:1 (no net loss) to as high as 3:1. In addition, the San Diego RWQCB may require that temporary and permanent impacts to stream length be mitigated at a 1:1 ratio (1,050 linear feet). The jurisdictions of the San Diego RWQCB and CDFW are not additive areas because the riparian habitat on the site may be within the jurisdiction of both of these agencies. Therefore, the permits and associated jurisdictional replacement requirements would identify which mitigation areas apply to the corresponding jurisdiction. If the CDFW and/or the San Diego RWQCB assert jurisdiction prior to, or as a condition of, issuance of the aforementioned permits, a detailed restoration program shall be prepared for approval by CDFW and/or the			

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures		Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
CM-BIO-2	San Diego RWQCB. The program shall include performance criteria designed to ensure that the habitat functions and values created as part of the restoration program exceed those that are impacted. Completion of the restoration program shall be determined by the resource agencies. Bird Nest Avoidance. In the event that construction activities occur between February 15 and August 15, the Moulton Niguel Water District (MNWD) Assistant General Manager, or designee (or its contractor), shall retain a qualified biologist (a professional biologist that is familiar with local birds and their nesting behaviors) to conduct a nesting bird survey no more than 3 days prior to commencement of construction activities. The nesting survey shall include the Project site and areas immediately adjacent to the site that could potentially be affected by Project-related construction activities such as noise, human activity, and dust. If active bird nesting is observed within 500 feet (ft) of the designated construction area prior to construction, the biologist shall establish suitable buffers around the active nests (e.g., as much as 500 ft for raptor species [subject to the recommendations of the qualified biologist]), and the buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Prior to commencement of grading activities and issuance of any building permits, the MNWD Assistant General Manager, or designee, shall verify that all Project grading and construction plans include specific requirements regarding the requirements of the Migratory Bird Treaty Act (MBTA) and Fish and Game Code Section 3503, that preconstruction surveys have been completed and the results reviewed by staff, and that the appropriate buffers (if needed) are noted on the plans and established in the field with orange snow fencing.	Moulton Niguel Water District	Moulton Niguel Water District Assistant General Manager, or designee	In the event that construction activities occur between February 15 and August 15/prior to the commencement of grading activities and the issuance of any building permits
Section 4.5: Cultural Resources CR-1	Unknown Archaeological Resources. Prior to commencement of grading activities, the Moulton Niguel Water District (MNWD) Assistant General Manager, or designee, shall verify that all Project grading and construction plans include requirements specifying that if archaeological resources are discovered during excavation, grading, or construction activities, work shall cease within 50 feet (ft) of the find	Moulton Niguel Water District/ Construction Contractor	Moulton Niguel Water District Assistant General Manager, or designee	Prior to the commencement of grading activities

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures	Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
until a qualified archaeologist from the Orange County List of Qualified Archaeologists has evaluated the find in accordance with federal, State, and local guidelines to determine whether the find constitutes a "unique archaeological resource," as defined in Section 21083.2(g) of the California Public Resources Code (PRC). Personnel of the proposed Project shall not collect or move any archaeological materials and associated materials. Construction activity may continue unimpeded on other portions of the Project site. The found deposits shall be treated in accordance with federal, State, and local guidelines, including those set forth in PRC Section 21083.2. CR-2 Paleontological Resources Impact Mitigation Program. Prior to commencement of any grading activity on site, the Moulton Niguel Water District (MNWD) Assistant General Manager, or designee, shall verify that a qualified paleontologist (a practicing paleontologist that is recognized in the paleontological community and is proficient in vertebrate paleontology), who is listed on the County of Orange list of certified paleontologists, has been retained to develop a Paleontological Resources Impact Mitigation Program (PRIMP) for this Project. The PRIMP shall include the methods that will be used to protect paleontological resources that may exist within the Project site, as well as procedures for monitoring, fossil preparation and identification, curation into a repository, and preparation of a report at the conclusion of grading. The PRIMP shall be consistent with the guidelines of the Society of Vertebrate Paleontology (SVP) and include, but not be limited to, the following: - Excavation and grading activities in deposits with high paleontological sensitivity (Young Axial Channel Deposits beginning at a depth of 10 feet (ft) below the existing ground surface and the siltstone facies of the Capistrano Formation) shall be monitored by a paleontological monitor following a PRIMP. No monitoring is required for excavations in deposits with no or low paleontological sensitivity (Artificial Fill or the Young Axial Channel Deposits from the surface to a depth of 10 ft). - If paleontological resources are encountered during the course of	Moulton Niguel Water District/ Construction Contractor	Moulton Niguel Water District Assistant General Manager, or designee	Prior to the commencement of any grading activity on site/if paleontological resources are encountered during the course of ground disturbance/in the event that paleontological resources are encountered when a paleontological monitor is not present

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures	Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
ground disturbance, the paleontological monitor shall have the authority to temporarily redirect construction away from the area of the find in order to assess its significance. - Collected resources shall be prepared to the point of identification, identified to the lowest taxonomic level possible, cataloged, and curated into the permanent collections of a scientific institution. - At the conclusion of the monitoring program, a report of findings shall be prepared to document the results of the monitoring program. - In the event that paleontological resources are encountered when a paleontological monitor is not present, work in the immediate area of the find shall be redirected and a paleontologist shall be contacted to assess the find for significance. If determined to be significant, the fossil shall be collected from the field.			
CR-3 Discovery of Human Remains. Consistent with the requirements of California Code of Regulations (CCR) Section 15064.5(e), if human remains are encountered, work within 25 feet (ft) of the discovery shall be redirected and the County Coroner notified immediately. State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code (PRC) Section 5097.98. If the remains are determined to be Native American, the County Coroner shall notify the Native American Heritage Commission (NAHC), which shall determine and notify a Most Likely Descendant (MLD). With the permission of the Moulton Niguel Water District (MNWD), the MLD may inspect the site of the discovery. The MLD shall complete the inspection and <u>make</u> recommendations or preferences for treatment within 48 hours of being granted access to the <u>site</u>. notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. Consistent with CCR Section 15064.5(d), if the remains are determined to be Native American and an MLD is notified, MNWD shall consult with the MLD as identified by the NAHC to develop an agreement for	Moulton Niguel Water District, or designee, or construction contractor	Moulton Niguel Water District Assistant General Manager, or designee	If human remains are encountered

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures		Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
treatment and disposition of the remains.				
Section 4.6: Geology and Soils				
GEO-1	Geotechnical Requirements and Seismic Design Standards. The City of Laguna Hill's Community Development Director, or designee, shall ensure that all design, grading, and construction operations and construction are conducted in accordance with the requirements of the City's Building Code, the California Building Code (CBC) applicable at the time of grading, and governing building codes and in conformance with the recommendations included in the geotechnical reports on the proposed Project site titled <i>Geotechnical Investigation, Proposed Improvements at the Moulton Niguel Water District Operations Center, 26161 Gordon Road, Laguna Hills, California and Revised Supplemental Geotechnical Investigation, Proposed Improvements at the Moulton Niguel Water District Operations Center, 26161 Gordon Road, Laguna Hills, California</i> (Petra Geosciences, 2016a and 2017). Unless superseded by other regulatory provisions or standards, seismic design criteria shall be developed on the basis of the requirements of the City of Laguna Hills Building Code. Final site grading, specifications, and foundation plans shall be reviewed by the Project geotechnical consultant prior to commencement of grading activities to verify conformance with the recommendations of these reports. In addition, the Project geotechnical consultant shall be present during site grading and foundation construction to observe and document proper implementation of the geotechnical recommendations. The final recommendations of the Project geotechnical consultant shall be summarized in a report subject to review by the City of Laguna Hills Community Development Director, or designee, prior to the start of grading activities.	Moulton Niguel Water District/ Construction Contractor	City of Laguna Hill's Community Development Director, or designee	During grading and construction activities
Section 4.7: Greenhouse Gas Emissions				
The proposed Project would result in less than significant impacts with respect to greenhouse gas emissions, and no mitigation is required.				
Section 4.8: Hazards and Hazardous Materials				
HAZ-1	Predemolition Surveys and Abatement of ACMs, LBPs, and PCBs. Prior to commencement of demolition activities, the Moulton Niguel Water District (MNWD) Assistant General Manager, or designee, shall verify that predemolition surveys for asbestos-containing materials	Moulton Niguel Water District	Orange County Fire Authority	Prior to commencement of demolition activities

Table 5.A: Mitigation and Monitoring Reporting Program

	Mitigation Measures	Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
	(ACMs), lead-based paints (LBPs), and polychlorinated biphenyls (PCBs) (including sampling and analysis of all suspected building materials) have been performed. All inspections, surveys, and analyses shall be performed by appropriately licensed and qualified individuals in accordance with applicable regulations (i.e., American Society for Testing and Materials (ASTM) E 1527-05, and 40 Code of Federal Regulations (CFR), Subchapter R, Toxic Substances Control Act [TSCA], Part 716, and SCAQMD Rule 1403). Wherever evidence of ACMs, LBPs, and PCBs are present in areas proposed for demolition, all such materials shall be removed, handled, and properly disposed of by appropriately licensed contractors according to all applicable regulations during demolition of structures (40 CFR, Subchapter R, TSCA, Parts 745, 761, and 763, and SCAQMD Rule 1403). During demolition, air monitoring shall be completed by appropriately licensed and qualified individuals in accordance with applicable regulations both to ensure adherence to applicable regulations (e.g., South Coast Air Quality Management District [SCAQMD]) and to provide safety to workers and the adjacent community. MNWD shall provide documentation (e.g., all required waste manifests, sampling, and air monitoring analytical results) to the Orange County Fire Authority (OCFA) showing that abatement of any ACMs, LBPs, and PCBs identified in these structures has been completed in full compliance with all applicable regulations and approved by the appropriate regulatory agencies (40 CFR, Subchapter R, TSCA, Parts 716, 745, 761, 763, and 795, and California Code of Regulations [CCR] Title 8, Article 2.6, and SCAQMD Rule 1403). An Operating & Maintenance Plan (O&M Plan) shall be prepared for any ACM-, LBP-, or PCB-containing fixtures to remain in place and shall be reviewed and approved by OCFA.			
HAZ-2	Soil Management Plan and Health and Safety Plan. Prior to issuance of any grading permit, the Moulton Niguel Water District (MNWD) shall prepare and approve a Soil Management Plan and a Health and Safety Plan for review and approval. The primary goal of a Soil Management Plan is to minimize risks to owners, developers, and	Moulton Niguel Water District/ Construction Contractor	Moulton Niguel Water District Assistant General Manager, or designee	Prior to the issuance of any grading permit

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures	Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
human health and the environment by providing a pre-approved plan for disturbing known or suspected contaminated areas at a site. The Health and Safety Plan is a written document that describes the process for identifying the physical and health hazards that could harm workers, procedures to prevent accidents, and steps to take when accidents occur. The Soil Management Plan and Health and Safety Plan shall be consistent with local, State, and federal regulations including but not limited to the requirements of California Occupational Safety and Health Act (Cal/OSHA) and shall encompass all subsurface soil disturbance activities. The construction contractor shall comply with all requirements detailed in the Soil Management Plan and Health and Safety Plan during construction. At a minimum, the Soil Management Plan and/or Health and Safety Plan shall include the following components: • A summary of all potential risks to construction workers, monitoring programs, maximum limits for all site chemicals, and emergency procedures. • Procedures for handling excavated soil and/or waste, sampling requirements, management and disposal of contaminated material, and documentation of the disturbance activity. • During all subsurface excavation activities, field technicians shall continuously monitor the soil as it is being excavated with appropriate field instruments. • During all subsurface excavation activities, chemicals of concern associated with petroleum hydrocarbon contaminants shall be continuously monitored and compared to appropriate levels of concern (e.g., Permissible Exposure Levels [PELs], Threshold Limit Values [TLVs], or concentrations Immediately Dangerous to Life and Health [IDLH] in the breathing zone). • Identification of a Site Health and Safety Officer. • Methods of contact, phone number, office location, and responsibilities of the Site Health and Safety Officer. • Emergency Response Plan.			

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures		Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
HAZ-3	Specification that the Site Health and Safety Officer shall be contacted immediately by the construction contractor if evidence of contaminants is present.			
	Discovery of Potentially Hazardous Materials. During construction activities, the Construction Contractor shall immediately notify the Director of the Orange County Environmental Health Care Agency (OCHCA) Environmental Health Division, or designee, and the Orange County Fire Authority (OCFA) if any contaminated soil, groundwater, toxic materials, subsurface tanks/piping, or potentially hazardous materials are encountered. The OCHCA shall determine the appropriate procedures for handling and disposal of the materials in accordance with local, State, and federal regulations. In the event that contaminated materials are encountered during grading activities, all work within that immediate area shall be temporarily halted and redirected around the area until the appropriate evaluation and follow-up remedial and clean-up measures are implemented so as to render that area suitable for work to resume.	Moulton Niguel Water District/ Construction Contractor	Moulton Niguel Water District Assistant General Manager, or designee	During construction
Section 4.9: Hydrology and Water Quality				
CM-WQ-1	Construction General Permit. Prior to issuance of a grading permit, the Moulton Niguel Water District (MNWD) shall obtain coverage under the State Water Resources Control Board National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0015-DWQ, as amended by Order No. 2010-0014-DWQ and 2012-0006-DWQ, NPDES No. CAS000002) (Construction General Permit). Construction activities shall not commence until the Waste Discharge Identification Number (WDID) is issued to MNWD by the State Water Resources Control Board. A construction Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented for the Project in compliance with the requirements of the Construction General Permit. The construction SWPPP shall identify construction Best Management Practices (BMPs) to be implemented to ensure that the potential for soil erosion and sedimentation is minimized and to control the discharge of pollutants in storm water runoff as a result of construction activities.	Moulton Niguel Water District	Moulton Niguel Water District Assistant General Manager, or designee	Prior to the issuance of a grading permit

Table 5.A: Mitigation and Monitoring Reporting Program

	Mitigation Measures	Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
CM-WQ-2	Groundwater Discharge Permit. During groundwater dewatering activities, the Construction Contractor shall comply with the requirements of the <i>General Waste Discharge Requirements for Discharges from Groundwater Extraction Discharges to Surface Waters within the San Diego Region</i> (Order No. R9-2008-0002, Permit No. CAG919003) (Groundwater Discharge Permit), or subsequent permit. The Construction Contractor shall comply with all applicable provisions in the permit, including water sampling, analysis, and reporting of dewatering-related discharges. Moulton Niguel Water District (MNWD) shall submit a Notice of Intent for coverage under the permit to the San Diego Regional Water Quality Control Board (RWQCB) at least 60 days prior to the start of dewatering. Groundwater discharge shall not commence until a Notice of Enrollment is received from the San Diego RWQCB. Upon completion of groundwater dewatering activities, MNWD shall submit a Notice of Termination to the San Diego RWQCB.	Moulton Niguel Water District/ Construction Contractor	Moulton Niguel Water District Assistant General Manager, or designee	During groundwater dewatering activities
CM-WQ-3	Final Water Quality Management Plan. Prior to the issuance of any grading or building permits, Moulton Niguel Water District (MNWD) shall prepare a Final Water Quality Management Plan (WQMP). The Final WQMP shall be prepared consistent with the South Orange County Municipal Separate Storm Sewer System (MS4) Permit and the South Orange County Water Quality Management Plan Template. The Final WQMP shall specify Best Management Practices (BMPs) to be incorporated into the design of the Project. The Project Applicant shall provide the Final WQMP to the City of Laguna Hills for review and approval.	Moulton Niguel Water District	Moulton Niguel Water District Assistant General Manager, or designee	Prior to the issuance of any grading or building permits

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures		Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
CM-WQ-4	Industrial General Permit. Prior to the completion of construction, Moulton Niguel Water District (MNWD) shall revise the existing operational Storm Water Pollution Prevention Plan (SWPPP) for the Project site in compliance with the requirement of the <i>General Permit for Storm Water Discharges Associated with Industrial Activities</i> (Order No. 2014-0057-DWQ, NPDES No. CAS000001). MNWD shall comply with all applicable provisions in the permit, including implementation of the operational SWPPP, implementation of Best Management Practices (BMPs), water sampling, analysis, and reporting of storm water discharges.	Moulton Niguel Water District	Moulton Niguel Water District Assistant General Manager, or designee	Prior to the issuance of any grading or building permits
Section 4.10: Land Use/Planning				
The proposed Project would result in less than significant impacts with respect to land use and planning, and no mitigation is required.				
Section 4.11: Mineral Resources				
The proposed Project would result not result in impacts with respect to mineral resources, and no mitigation is required.				
Section 4.12: Noise				
CM-NOI-1	Construction Hours. Construction activities occurring as part of the Project shall be subject to the limitations and requirements of the City of Laguna Hills Municipal Code, which states that construction activities shall occur only between the hours of 7:00 a.m. and 8:00 p.m. on weekdays and from 8:00 a.m. to 8:00 p.m. on Saturdays. Construction is not permitted on Sundays or any federal holidays.	Moulton Niguel Water District/ Construction Contractor	City of Laguna Hills	During Project construction

Table 5.A: Mitigation and Monitoring Reporting Program

	Mitigation Measures	Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
NOI-1	Construction Noise and Vibration: Prior to issuance of building permits, the Moulton Niguel Water District (MNWD) Assistant General Manager, or designee, (or its contractor), shall verify that grading and construction plans include the following requirements: - During construction activities, a temporary 12-foot-high noise barrier shall be placed around the perimeter of the Project site as specified in Figure 4.12.4 to reduce potential construction noise impacts. The temporary construction barrier shall be a 0.5-inch thick plywood fence or another material that has a minimum Sound Transmission Class rating of 28. - Prior to issuance of grading permits, MNWD shall incorporate the following measures as requirements on the grading plan cover sheet to ensure that the greatest distance between noise sources and sensitive receptors during construction activities has been achieved: - Construction equipment, fixed or mobile, shall be equipped with properly operating and maintained noise mufflers consistent with manufacturer's standards. - Construction staging areas shall be located away from off-site sensitive uses during the later phases of project development. - The Project contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the Project site whenever feasible.	Moulton Niguel Water District/ Construction Contractor	Moulton Niguel Water District Assistant General Manager, or designee	Prior to the issuance of building permits/during construction activities/prior to the issuance of grading permits
NOI-2	Deliveries. The Moulton Niguel Water District (MNWD) Assistant General Manager, or designee, shall ensure that deliveries of materials, fuel, and equipment occur during normal business hours (Monday through Friday, 7:00 a.m. to 5:00 p.m.), with the exception of emergency situations, whereby deliveries could occur outside of typical business hours.	Moulton Niguel Water District	Moulton Niguel Water District Assistant General Manager, or designee	During Project operation
NOI-3	Outdoor Speakers and Devices. During Project operation, Moulton Niguel Water District (MNWD) shall be prohibited from using outdoor speakers, bells, or other devices that could draw attention to the Project site or generate noise beyond the boundaries of the site. The use of outdoor communication facilities shall only be permitted during emergency situations.	Moulton Niguel Water District	Moulton Niguel Water District Assistant General Manager, or designee	During Project operation

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures		Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
NOI-4	Service and Repair Activities. During Project operation, Moulton Niguel Water District (MNWD) shall be prohibited from service and repair operations on service vehicles outside of typical business hours (Monday through Friday, 7:00 a.m. to 5:00 p.m.) and must perform such activities within an enclosed structure on the site. Service and repair activities shall only be permitted outside of typical business hours during an emergency situation.	Moulton Niguel Water District	Moulton Niguel Water District Assistant General Manager, or designee	During Project operation
Section 4.13: Population and Housing				
The proposed Project would result in less than significant impacts with respect to population and housing, and no mitigation is required.				
Section 4.14: Public Services				
The proposed Project would result less than significant impacts with respect to public services, and no mitigation is required.				
Section 4.15: Recreation				
The proposed Project would result less than significant impacts with respect to recreation, and no mitigation is required.				
Section 4.16: Transportation and Traffic				
TRA-1:	Construction Traffic Control Plan. Prior to the issuance of grading permits, the Moulton Niguel Water District (MNWD) shall prepare a Construction Traffic Control Plan for approval by the City of Laguna Hills City Engineer, or designee, and shall implement the Plan during Project construction with the goal of maintaining acceptable intersection levels of service (LOS) during peak traffic hours. The Construction Traffic Control Plan would be consistent with the City of Laguna Hills Public Services and Engineering Department's <i>Traffic Control Plan General Notes</i> (2009). The Traffic Control Plan shall include, but not be limited to, the following: - Provisions for temporary traffic control during all construction activities adjacent to public right-of-way to improve traffic flow on public roadways and ensure the safe access into and out of the site (e.g., warning signs, lights and devices, and flag person). - Planning routine street closures outside of peak traffic hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m., Monday through Friday). - Rerouting construction trucks to reduce travel on congested streets. - Prohibiting construction-related vehicles from parking on public	Moulton Niguel Water District	City of Laguna Hills City Engineer, or designee	Prior to the issuance of grading permits

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures	Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
streets. • Providing safety precautions for pedestrians and bicyclists through such measures as alternate routing and protection barriers. • Scheduling construction-related deliveries, other than concrete and earthwork-related deliveries, so as to reduce travel during peak travel periods. • Obtaining the required permits for truck haul routes from the City of Laguna Hills. • All emergency access to the Project site and adjacent areas shall be kept clear and unobstructed during all phases of demolition and construction. • The Orange County Sheriff's Department and the Orange County Fire Authority (OCFA) shall be notified a minimum of 1 week (7 days) in advance of any lane closures or roadway work so that emergency vehicles can be rerouted during construction if deemed necessary in the expert opinion of the Orange County Sheriff's Department and/or OCFA. • The Orange County Transportation Authority (OCTA) shall be notified regarding any affected locations a minimum of 10 working days prior to construction so that transit service can be rerouted if deemed necessary in the expert opinion of the OCTA. • Flag persons shall be trained to assist in emergency response by restricting or controlling the movement of traffic that could interfere with emergency vehicle access.			
TRA-2 Gordon Road/Moulton Parkway Intersection Signalization. Prior to commencement of construction activities issuance of a certificate of occupancy for the Operations Center Building, the Moulton Niguel Water District (MNWD) shall install a traffic signal at the unsignalized intersection of Gordon Road/Moulton Parkway. Installation of the traffic signal shall include the traffic signal equipment and timing and coordination with adjacent intersections. Signal installation shall meet the City of Laguna Hills standards and be implemented to the satisfaction of the City of Laguna Hills Traffic Engineer, or designee.	Moulton Niguel Water District	City of Laguna Hills Traffic Engineer, or designee	Prior to the commencement of construction activities

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures		Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
Section 4.17: Tribal Cultural Resources TCR-1	Unknown Tribal Cultural Resources. Prior to commencement of grading activities, the Moulton Niguel Water District (MNWD) Assistant General Manager, or designee, shall verify that all Project grading and construction plans include requirements specifying that if tribal cultural resources are discovered during excavation, grading, or construction activities, work shall cease within 50 feet of the find until a qualified archaeologist from the Orange County List of Qualified Archaeologists has evaluated the find in accordance with federal, State, and local guidelines to determine whether the find constitutes a "unique archaeological resource" as defined in Section 21083.2(g) of the California Public Resources Code (PRC). If the find is determined to be a unique archaeological resource, the found deposits shall be treated in accordance with federal, State, and local guidelines including but not limited to those set forth in PRC Section 21083.2. In addition, the find shall be assessed by a representative from the Gabrieleno/Tongva San Gabriel Band of Mission Indians to determine whether the find constitutes a "tribal cultural resource" as defined in PRC Section 21074. If the find is determined to be a tribal cultural resource, the Gabrieleno/Tongva San Gabriel Band of Mission Indians shall coordinate the treatment and curation of these resources with MNWD. Personnel of the proposed Project shall not collect or move any archaeological or tribal cultural resources and associated materials. Construction activity may continue unimpeded on other portions of the Project site during assessment and treatment.			

Table 5.A: Mitigation and Monitoring Reporting Program

Mitigation Measures		Responsible Party	Party or Agency Responsible for Verification and/or Enforcement	Timing for Compliance Measure or Mitigation Measure
Section 4.18: Utilities and Service Systems				
CM-UTL-1	Landscape Water Efficiency Ordinance. Prior to the issuance of a grading permit, the Moulton Niguel Water District (MNWD) shall submit a Final Landscaping Plan to the City of Laguna Hill's Community Development Director, or designee. The Final Landscaping Plan shall be consistent with all applicable provisions outlined in the City's Landscape Water Efficiency Ordinance.	Moulton Niguel Water District	City of Laguna Hill's Community Development Director, or designee	Prior to the issuance of a grading permit
ARB = California Air Resources Board BMP = best management practice Cal/OSHA = California Occupational Safety and Health Act CCR = California Code of Regulations CDFW = California Department of Fish and Wildlife City = City of Laguna Hills DAMP = Drainage Area Management Plan District = Moulton Niguel Water District DOORS = Diesel Off-road Online Reporting System EIN = Equipment Identification Number ft = feet/foot HVLP = High Volume Low Pressure IDLH = Immediately Dangerous to Life and Health MBTA = Migratory Bird Treaty Act MLD = Most Likely Descendant MNWD = Moulton Niguel Water District mph = mile(s) per hour MS4 = Municipal Separate Storm Sewer System NAHC = Native American Heritage Commission NO_x = nitrogen oxides NPDES = National Pollutant Discharge Elimination System PEL = Permissible Exposure Levels PRC = Public Resources Code PRIMP = Paleontological Resources Impact Mitigation Program RWQCB = Regional Water Quality Control Board SCAQMD = South Coast Air Quality Management District STC = Sound Transmission Class SVP = Society of Vertebrate Paleontology SWPPP = Storm Water Pollution Prevention Plan TLV = Threshold Limit Values VOC = volatile organic compound WDID = Waste Discharge Identification Number WQMP = Water Quality Management Plan				



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Deputy City Manager

ISSUE: Second Reading & Adoption of Proposed Ordinance Adding Chapter 8-07 (Citywide Park and Recreation Facilities Fees) to the Laguna Hills Municipal Code, Establishing Development Impact Fees for Non-Subdivision Residential Development Pursuant to the Provisions of Government Code Section 66000 Under the Mitigation Fee Act for Citywide Parks, Recreation and Open Space Facilities.

RECOMMENDATION: That the City Council adopt an Ordinance entitled: “An Ordinance of the City of Laguna Hills, California, adding Chapter 8-07 (Citywide Park and Recreation Facilities Fees) to Title 8 (Recreation, Parks, and Facilities) of the Laguna Hills Municipal Code establishing Development Impact Fees for Citywide Parks, Recreation and Open Space Facilities for non-subdivision residential development.”

SUMMARY:

The proposed Ordinance would add a new Chapter 8-07 (Citywide Park and Recreation Facilities Fees) to Title 8 (Recreation, Parks, and Facilities) of the Laguna Hills Municipal Code establishing Development Impact Fees for Non-Subdivision Residential Development based on a Parks & Recreation Facilities Impact Fee Study conducted by Willdan Financial Services.

At the City Council’s direction, staff surveyed other South County cities to evaluate their adopted park development impact fee structure. With the exception of Laguna Niguel, other South County cities have based their park development impact fee on the fair market value of land. Since the cost of land fluctuates with each transaction, no city adopted a specific fee amount. Instead, cities must go through a fee calculation to

Second Reading & Adoption of Ordinance-Development Impact Fees

November 27, 2018

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establish a fee for every project based on the cost of land and the number of units in each project. For Laguna Niguel, a specific land value ranging from approximately \$1 million to \$2.1 million per acre of land was established, along with the amount of parkland required at different residential densities. The impact fee amount can be calculated once the number of units in a project is known.

A copy of the proposed Ordinance and the Staff Report for the introduction of the Ordinance, including attachments, are included as attachments to this report. The City Council introduced the Ordinance by a vote of 4-0. It is in order to adopt the Ordinance.

ATTACHMENTS:

- November 13, 2018 Introduction to Ordinance Staff Report and Attachments including Hot Envelope Item
- Proposed Ordinance



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 13, 2018

TO: Mayor and Council Members

FROM: David Chantarangsu
Community Development Director

ISSUE: Introduction and First Reading of an Ordinance Adding Chapter 8-07 (Citywide Park and Recreation Facilities Fees) to the Laguna Hills Municipal Code, Establishing Development Impact Fees for Non-Subdivision Residential Development Pursuant to the Provisions of Government Code Section 66000 Under the Mitigation Fee Act for Citywide Parks, Recreation and Open Space Facilities, and Adoption of a Resolution Establishing the Fees.

RECOMMENDATION: That the City Council: (1) Conduct a Public Hearing ; (2) Introduce for first reading, read by title only, and waive further reading of an Ordinance entitled: “An Ordinance of the City of Laguna Hills, California, adding Chapter 8-07 (Citywide Park and Recreation Facilities Fees) to Title 8 (Recreation, Parks, and Facilities) of the Laguna Hills Municipal Code establishing Development Impact Fees for Citywide Parks, Recreation and Open Space Facilities for non-subdivision residential development.”; and (3) Adopt a Resolution entitled “A Resolution of the City Council of the City of Laguna Hills, California, establishing the Citywide Park and Recreational Facilities Fees and finding that the action is exempt from the California Environmental Quality Act (CEQA) per Sections 15273 of the CEQA Guidelines and Public Resources Code Section 21080.”

SUMMARY:

In 2000 the City adopted Ordinance No. 2000-6, which enabled the City to require the dedication of land, payment of an in-lieu fee, or a combination of both, in order to provide for park and recreational facilities for new residential subdivisions. The in-lieu fee, also referred to as a “Quimby Fee”, was subsequently updated in 2015. While the

Citywide Park and Recreation Facilities Fees

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City currently imposes parkland dedication requirements on new residential subdivisions, it does not collect a fee for parks and recreation facilities from new development not occurring within a subdivision. This is typical of projects where new apartment projects are constructed and no subdivision map is filed or required. As a result, residential development which does not require the filing of a subdivision map does not contribute its fair share towards the park and recreation facilities that will serve it. Staff notes that both the redevelopment of Oakbrook Village and the approval of new apartment homes that are part of Five Lagunas were subject to the Quimby Fee.

Earlier this year, the City engaged Willdan Financial Services to conduct a Parks & Recreation Facilities Impact Fee Study (Study). The objective was for the consultant to assist the City with a nexus analysis documenting the need for a park development impact fee on residential development for parks and recreation facilities, pursuant to the Mitigation Fee Act (Government Code Section 66000 et seq.). The City's existing parkland dedication and in-lieu fee requirements for parkland were also updated following the authority granted by Government Code Section 66477 (The Quimby Act).

Although the Study justifies an increase in the City's Quimby Fee, no changes to the current fee amount are proposed. The study also justifies the adoption of a new City-Wide park development impact fee, but at an amount that is significantly higher than the City's current Quimby Fee level. Since both fees are used to provide parks and recreation facilities for new residential development, staff is recommending that the proposed park and recreation facilities impact fee amount be identical to the current Quimby Fee, resulting in a significant discount, as depicted in Table 1 below. The amount of the proposed new park development impact fee will vary based on the number of dwelling units per acre in a project:

Table 1 – Recommended Impact Fee Amount

Residential Density	Recommended Fee (Per Unit)	Willdan Fee Study	Discount
3.5 units per acre or less	\$18,206	\$42,836	-\$24,630
3.5 units per acre – 18 units per acre or less	\$23,013	\$60,301	-\$37,288
Greater than 18 units per acre	\$15,636	\$33,407	-\$17,771

BACKGROUND:

Willdan Financial Services has completed its study documenting the nexus analysis for a park and recreation facilities fee for the City of Laguna Hills. The report provides a justification for the establishment of new park and recreation facilities impact fee and updates the City's current Quimby Fee in lieu of parkland dedication. The study provides all necessary data and findings to implement these fees under the Mitigation Fee Act, and under the Quimby Act, respectively.

As residential development occurs within the City, the parks and recreation facilities will continue to become more crowded and service standards will drop, unless more parks and recreation facilities are constructed to mitigate the effects of growth. Park service standards are expressed in terms of park acres per 1,000 residents. Per the Quimby Act, park service standards used to guide future parkland dedication must be updated as of the last federal census. In this case, the City has a park standard of 6.34 acres per 1,000 residents as of the 2010 census.

The Quimby Act specifies that the dedication requirement must be a minimum of 3.0 acres and a maximum of 5.0 acres per 1,000 residents. A jurisdiction can require residential developers to dedicate above the three-acre minimum if the jurisdiction's existing park standard at the time it adopted its Quimby Act ordinance justifies the higher level (up to five acres per 1,000 residents). The standard used must also conform to the jurisdiction's adopted general or specific plan standards.

The Quimby analysis and park and recreation facilities impact fee analysis under the Mitigation Fee Act both use a standard of 5.0 acres of parkland as a basis of the fee for consistency, even though the current (2018) parkland standard is 6.12 acres per 1,000 residents.

The park and recreation facilities impact fee also includes an open space and trails component that is not included in the Quimby analysis as Quimby restricts the parkland standard to neighborhood and community parkland, excluding open space. The open space and trails component is based on maintaining the existing open space standard of 5.33 acres of open space and trails per 1,000 residents.

PROPOSAL

The study supports the following park and recreational development impact fee amounts:

Citywide Park and Recreation Facilities Fees

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Residential Density	Current Quimby Fee (Per Unit)	Willdan Fee Study - Table 15	Staff Recommended Fee
3.5 units per acre or less	\$18,206	\$42,836	\$18,206
3.5 units per acre – 18 units per acre or less	\$23,013	\$60,301	\$23,013
Greater than 18 units per acre	\$15,636	\$33,407	\$15,636

ANALYSIS

In order to impose park impact fees, the nexus analysis must demonstrate that a reasonable relationship or “nexus” exists between new development that occurs within the City and the need for additional park, recreational and open space facilities as a result of new development. More specifically, this analysis presents the necessary findings in order to meet the procedural requirements of the Mitigation Fee Act, which are as follows:

1. Identify the purpose of the fee (§66001(a)(1) of the Act).

It is the policy of the City that new development will not burden the existing service population with the cost of facilities required to accommodate growth. General Plan Policy LU-15 states “Review development impact fees, user charges, and mitigation fees to ensure charges are commensurate with costs and services provided.” The purpose of the fees proposed by this report is to implement this policy by providing an analysis of the justifiable parks and recreation facilities costs that can be charged through an impact fee. The fees advance a legitimate City interest by enabling the City to provide parks, recreational and open space facilities to new development.

2. Identify the use to which the fees will be put.

If the use is financing facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in §65403 or §66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the facilities for which the fees are charged (§66001(a)(2) of the Act).

Citywide Park and Recreation Facilities Fees

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Fees proposed in this report, if enacted by the City Council, would be available to fund expanded recreational and open space facilities to serve new development. Facilities funded by these fees are designated to be located within the City. Fees addressed in this report will be restricted to funding parks and recreation facilities, including trails and open space facilities.

An estimate of the amount of parkland needed to serve new development is identified in Chapters 3 and 4 of the Park and Recreation Facilities Fee Study report. Staff provided Willdan with descriptions of certain planned facilities, including their specific location, to the extent they have been identified, that have been included in master plans, capital improvement plans, and other City planning documents, such as the General Plan. The City may change the list of planned facilities to meet changing needs and circumstances of new development, as it deems necessary. The fees should be updated if these amendments result in a significant change in the fair share cost allocated to new development.

3. Determine the reasonable relationship between the fees' use and the type of development project on which the fees are imposed (§66001(a)(3) of the Act).

The report assumed that the City will restrict fee revenue to the acquisition of land, construction of facilities and buildings, and purchase of related equipment, furnishings, vehicles, and services used to serve new development as described above under the "Use of Fee Revenues" finding. Facilities funded by the fees are expected to provide a citywide network of facilities accessible to the additional residents associated with new development. Under the Act, fees are not intended to fund planned facilities needed to correct existing deficiencies. Thus, a reasonable relationship can be shown between the use of fee revenue and the new development residential and non-residential use classifications that will pay the fees.

4. Determine the reasonable relationship between the need for the public facilities and the types of development on which the fees are imposed (§66001(a)(4) of the Act).

Facilities need is based on a facility standard that represents the demand generated by new development for those facilities. Facilities demand is determined as follows:

The service population is established based upon the number of residents living in Laguna Hills. Service population correlates to the demand for parks and recreation facilities.

Citywide Park and Recreation Facilities Fees

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For all facilities included in this analysis, demand is measured by a single facility standard (park acres per 1,000 service population or open space and trails acres per 1,000 service population) that can be applied across land use types to ensure a reasonable relationship to the type of development.

The standards used to identify growth needs are also used to determine if planned facilities will partially serve the existing service population by correcting existing deficiencies. This approach ensures that new development will only be responsible for its fair share of planned facilities, and that the fees will not unfairly burden new development with the cost of facilities associated with serving the existing service population.

5. Determine how there is a reasonable relationship between the fees amount and the cost of the facilities or portion of the facilities attributable to the development on which the fee is imposed (§66001(b) of the Act).

The reasonable relationship between each facilities fee for a specific new development project and the cost of the facilities attributable to that project is based on the estimated service population growth the project will accommodate. Fees for a specific project are based on the project's size or increases in the number of dwelling units. Larger new development projects can result in a higher service population, resulting in higher fee revenue than smaller projects in the same land use classification. Thus, the fees can ensure a reasonable relationship between a specific new development project and the cost of the facilities attributable to that project.

PUBLIC COMMENT:

As of this writing, no comments have been received.

CEQA FINDINGS:

Environmental review is not required under the California Environmental Quality Act (CEQA) pursuant to Section 21080(b)(8) of the Public Resources Code and CEQA Guidelines section 15273(a)(4) because the fees collected will be used for park, recreational and open space facilities necessary to maintain an acceptable level of service on existing facilities within the city; adoption of the fee is not a "project" under CEQA and is exempt pursuant to CEQA Guidelines section 15378(b)(4) because it creates a government funding mechanism or other fiscal activity which do not involve any

commitment to any specific project which may result in a potentially significant physical impact on the environment.

FISCAL IMPACT:

The adoption of the proposed ordinance and establishment of the new park and recreational facility impact fee will provide the City with a funding source to provide park and recreational facilities for new residents. The actual fiscal impact will not be known until or unless future residential projects are approved by the City Council or Planning Agency.

ATTACHMENTS:

- Attachment 1 - Proposed Ordinance
- Attachment 2 - Proposed Resolution
- Attachment 3 - Park & Recreation Facilities Fee Study

The seal of the City of Laguna Hills is a circular emblem. It features a central illustration of a horse and rider in a field, with a fence and trees in the background. The text "CITY OF LAGUNA HILLS" is written in a circular path around the top of the seal, and "1991" is at the bottom. The seal is faded and serves as a background for the title text.

Attachment 1 Proposed Ordinance

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 8-07 (CITYWIDE PARK AND RECREATION FACILITIES FEES) TO TITLE 8 (RECREATION, PARKS, AND FACILITIES) OF THE LAGUNA HILLS MUNICIPAL CODE ESTABLISHING DEVELOPMENT IMPACT FEES FOR CITYWIDE PARKS, RECREATION AND OPEN SPACE FACILITIES FOR NON-SUBDIVISION RESIDENTIAL DEVELOPMENT.

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, HEREBY FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, State law authorizes the City to adopt development impact fees to mitigate the impacts to the City's infrastructure and public facilities caused by development projects; and

WHEREAS, Willdan Financial Services has prepared a Park and Recreation Facilities Fee Study dated October 17, 2018, analyzing the level of fees required to support future residential development in the City through 2030 and determining the future development's share of the cost of public facilities and capital improvements for park, recreation and open space facilities required as a result of such development; and

WHEREAS, Citywide Park and Recreation Facilities Fees are required to provide funding for the development of City park, recreation and open space facilities to accommodate the residents of new residential development projects, which create a need for and demand upon such facilities; and

WHEREAS, Citywide Park and Recreation Facilities Fees are applied to development projects based upon the impacts that such projects have on park, recreation and open space facilities and the need therefor; and

WHEREAS, the implementation of the Willdan Financial Services fee study requires revisions to the Municipal Code to clarify the imposition of the fees to be set by resolution of the City Council.

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. Chapter 8-07 (Citywide Park and Recreation Facilities Fees) is hereby added to Title 8 (Recreation, Parks, and Facilities) of the Laguna Hills Municipal Code to

read as follows:

CHAPTER 8-07

CITYWIDE PARK AND RECREATION FACILITIES FEES

8-07.010	Declaration of purpose.
8-07.020	Citywide Park, Recreation and Open Space Facilities Fee established.
8-07.030	Creation of special fund and use of funds.
8-07.040	Payment of fee.
8-07.050	Exemptions.

8-07.010 Declaration of purpose.

The purpose of this chapter is to establish a program for requiring the payment of fees for parks, recreation and open space facilities to accommodate the residents of new residential development projects, which create a need for, and demand upon, such facilities. The Citywide Park and Recreation Facilities Fees established in this chapter are applied to residential development projects that are not subject to subdivisions of land and the Quimby Fees in Chapter 8-06, and are imposed based upon the impacts that such non-subdivision residential projects have on park, recreation and open space facilities. The imposition of development impact fees is one of the preferred methods of ensuring that new development bears a proportionate share of the cost of public facilities and service improvements necessary to accommodate such new residential development. This chapter is enacted pursuant to the Mitigation Fee Act (Government Code Sections 66000 et seq.) and the fees that will be established by resolution of the City Council will be subject to a fee study that will demonstrate the nexus, or need and costs for the public recreational and open space facilities and service improvements created by residential development projects within the City, consistent with the goals and objectives of City's General Plan, to meet the needs of the citizens of the community for parks, recreation and open space and to further the health, safety, and general welfare of the community.

8-07.020 Citywide Park, Recreation and Open Space Facilities Fee established.

Every developer who creates a residential development not subject to Chapter 8-06 (Park Dedication and In-Lieu Fee Requirements) of this Code shall be required to remit a park, recreation and open space fee as established by Resolution of the City Council for the purpose of providing citywide park, recreational and open space facilities in the City. A "residential development" for purposes of this chapter means construction or installation of new residential dwelling units which do not involve the subdivision of land, and includes second units, accessory dwelling units, mobile homes, apartments, single-family duplexes, and single-family homes on preexisting lots. The fees established herein shall be subject to Government Code Section 66000 et seq.

8-07.030. Creation of special fund and use of funds.

The fee collected pursuant to this chapter shall be deposited in a special fund created to hold the revenue generated by the fee. Moneys within the fund may be expended for citywide parks and recreational purposes, including land acquisition, park improvements, open space acquisition and trail improvements. Funds may further be used to reimburse the city for costs advanced in anticipation of new residential development, including without limitation, administrative costs incurred with respect to parks, recreational and open space projects, or to reimburse other developers who have constructed public parks, recreational facilities, open space and trails, where those facilities were beyond those needed to mitigate the impact of the developer's project or projects. In the event that bonds or similar debt instruments are issued for advanced provision of public recreational and open space facilities for which development impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments.

8-07.040. Payment of fee.

The fee established in this chapter shall be collected in accordance with the provisions of California Government Code Section 66007, as the same presently exists or may hereafter be amended from time to time.

8-07.050. Exemptions.

The following shall be exempted from payment of the fee adopted by this chapter:

- A. Alterations, renovations or expansion of an existing residential building or structure where no additional dwelling units are created. The expansion of, or change of use of an existing commercial or industrial building or structure, which creates residential dwelling(s) shall not be exempt from the fees established in this chapter. For purposes of this section, "expansion" shall be defined as any increase in the gross floor area of the existing building or structure.
- B. The replacement of a destroyed or partially destroyed or damaged building or structure with a new building or structure of the same size and use.

SECTION 3. This Ordinance shall take effect on _____, 2018, the 31st day following the adoption of this Ordinance by the City Council.

SECTION 4. California Environmental Quality Act. The City Council determines that the adoption of this ordinance and approval of the Citywide Park and Recreation Facilities Fees program is statutorily exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 21080(b)(8) of the Public Resources Code and CEQA Guidelines section 15273(a)(4) because the fees collected from the chapter codified by this ordinance will be used for park, recreational and open space facilities necessary to maintain an acceptable level of service on existing facilities within the city; is not a "project" under CEQA and is exempt pursuant to CEQA Guidelines section

15378(b)(4) because it creates a government funding mechanism or other fiscal activity which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

SECTION 5. Upon the effective date of this Ordinance, the provisions hereof shall supersede any inconsistent or conflicting provisions of the Laguna Hills Municipal Code.

SECTION 6. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 7. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §§
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. _____ was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the _____ day of

_____ 2018, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the _____ day of _____ 2018, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Laguna Hills, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
AND PUBLICATION

MELISSA AU-YEUNG, being first duly sworn, deposes and says:
That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;
That in compliance with State Laws of the State of California, ORDINANCE NO. _____, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 8-07 (CITYWIDE PARK AND RECREATION FACILITIES FEES) TO TITLE 8 (RECREATION, PARKS, AND FACILITIES) OF THE LAGUNA HILLS MUNICIPAL CODE ESTABLISHING DEVELOPMENT IMPACT FEES FOR CITYWIDE PARKS, RECREATION AND OPEN SPACE FACILITIES FOR NON-SUBDIVISION RESIDENTIAL DEVELOPMENT.

on the _____ day of _____ 2018, was published in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the _____ day of _____ 2018, caused to be posted in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
Laguna Hills Community Center
La Paz Center

MELISSA AU-YEUNG, CITY CLERK
Laguna Hills, California

The seal of the City of Laguna Hills is a circular emblem. It features a central illustration of a horse and rider in a field, with a fence and trees in the background. The text "CITY OF LAGUNA HILLS" is written in a circular path around the top of the seal, and "1991" is at the bottom. The seal is faded and serves as a background for the title.

Attachment 2 Proposed Resolution

RESOLUTION NO. 2018-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ESTABLISHING THE CITYWIDE PARK AND RECREATIONAL FACILITIES FEES AND FINDING THAT THE ACTION IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTIONS 15273 OF THE CEQA GUIDELINES AND PUBLIC RESOURCES CODE SECTION 21080.

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, with the adoption of Ordinance 2018-__ on ____, 2018, the City Council established a Citywide Park and Recreation Facilities Fee program imposing development impact fees for citywide parks, recreation and open space facilities for residential non-subdivisions in accordance with applicable law including without limitation Government Code section 66000, et seq. (the Mitigation Fee Act), and authorized the imposition of development impact fees in amounts to be set by subsequent City Council resolution; and

WHEREAS, Willdan Financial Services has prepared a Park and Recreation Facilities Fee Study dated October 17, 2018 (the "Nexus Study"), analyzing the level of fees required to support future residential development in the City through 2030 and determining the future development's share of the cost of public facilities and capital improvements for park, recreation and open space facilities required as a result of such development; and

WHEREAS, Citywide Park and Recreation Facilities Fees are required to provide funding for the development of City park, recreation and open space facilities to accommodate the residents of new residential development projects, which create a need for and demand upon such facilities; and

WHEREAS, Citywide Park and Recreation Facilities Fees are applied to development projects based upon the impacts that such projects have on park, recreation and open space facilities and the need therefor; and

WHEREAS, the Nexus Study is attached hereto as Attachment "A" to this resolution and incorporated herein by this reference, and has been made available for public review and a copy is on file in the City Clerk's office a copy; and

WHEREAS, pursuant to Government Code Section 66014, 66017, and 66018, proposed increases to specific user fees charged for certain services must be adopted by Resolution, following notice and Public Hearing; and

WHEREAS, notice of Public Hearing has been given pursuant to Government Code Section 6062a, oral and written presentations have been made and received, and the required Public Hearing has been held; and

WHEREAS, the City Council held and conducted a public hearing on____, 2018, in accordance with applicable public notice, to review and consider the Nexus Study and the potential implementation of updated and increased Fees; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. Adoption of Recitals. The foregoing recitals set forth above are true and correct and are incorporated by reference herein.

SECTION 2. Approval of Nexus Study. The Nexus Study attached as Attachment "A" is hereby approved and adopted.

SECTION 3. Citywide Park and Recreation Facilities Fee. The fee for park, recreation and open space facilities established under Chapter 8-07 (Citywide Park and Recreation Facilities Fees) of the Laguna Hills Municipal Code, imposed on each non-subdivision residential development not subject to Chapter 8-06 (Park and Dedication and In-Lieu Fee Requirements) of the Laguna Hills Municipal Code shall be as follows:

Residential Density	Fee
3.5 units per acre or less	\$ 18,206.00
3.5 units per acre to 18 units per acre	\$ 23,013.00
Greater than 18 units per acre	\$ 15,636.00

SECTION 4. Effective Date. The provisions of this Resolution shall become effective and shall be implemented 60-days following the adoption of this resolution.

SECTION 5. Environmental Exemption. The adoption of this Resolution is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 21080(b)(8) of the Public Resources Code and CEQA Guidelines section 15273(a)(4) because the fees collected herein will be used for park, recreational and open space facilities necessary to maintain an acceptable level of service on existing facilities within the city; the adoption of this resolution is not a "project" under CEQA and is exempt pursuant to CEQA Guidelines section 15378(b)(4) because it creates a government funding mechanism or other fiscal activity which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and in accordance with such determination, the City Clerk is hereby directed to file a Notice of Exemption upon adoption of this Resolution.

SECTION 6. Severability. If any adopted fee, rate, or charge adopted by this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such adjusted fee, rate, or charge shall be deemed a

separate, distinct, and independent provision of this Resolution, and such holding shall not affect the validity of the remaining user fees, rate, and charges adopted or revised herein. The City Council hereby declares that it would have adopted the Resolution and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2018-x-x adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the ____ day of _____ 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

The seal of the City of Laguna Hills is a circular emblem. It features a central shield with a sun rising over a landscape with mountains and a river. The shield is surrounded by a wreath. The outer ring of the seal contains the text "CITY OF LAGUNA HILLS" at the top and "1991" at the bottom.

**Attachment 3
Park & Recreation
Facilities Fee Study
(Exhibit A to Resolution)**

CITY OF LAGUNA HILLS

PARK AND RECREATION FACILITIES FEE STUDY

FINAL

OCTOBER 24, 2018



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1. Introduction

This report estimates the cost of new parks needed to accommodate new development in the City of Laguna Hills to update the City's park dedication and in-lieu fee requirements. The City currently has a *Quimby Act* parkland dedication in-lieu fee. This report updates that fee and also includes a nexus analysis to establish a park and recreation facilities fee under the *Mitigation Fee Act*.

Background and Study Objectives

The primary policy objective of a public facilities fee program is to ensure that new residential development pays the capital costs associated with the growth caused by the development. To fulfill this objective, public agencies should review and update their fee programs periodically to incorporate the best available information.

For projects occurring in subdivisions, the City uses the *Quimby Act* (California Government Code 66477 et seq.) to calculate parkland dedication impact fees. The *Quimby Act* allows a city to require developers to dedicate at least three acres and up to five acres per 1,000 residents, if the city's existing park standard as of the last Census justifies the higher level.

The City can impose public facilities fees, in this case for park and recreation facilities (including open space and trails facilities) under authority granted by the *Mitigation Fee Act*, contained in *California Government Code* Sections 66000 et seq. This report provides the necessary findings required by the *Act* for adoption of the fees presented in the fee schedules contained herein.

Public Facilities Financing in California

The changing fiscal landscape in California during the past 40 years has steadily undercut the financial capacity of local governments to fund infrastructure. Three dominant trends stand out:

- The passage of a string of tax limitation measures, starting with Proposition 13 in 1978 and continuing through the passage of Proposition 218 in 1996;
- Declining popular support for bond measures to finance infrastructure for the next generation of residents and businesses; and
- Steep reductions in federal and state assistance.

Faced with these trends, many cities and counties have had to adopt a policy of "growth pays its own way." This policy shifts the burden of funding infrastructure expansion from existing taxpayers onto new development. This funding shift has been accomplished primarily through the imposition of assessments, special taxes, and development impact fees also known as public facilities fees.

Organization of the Report

The determination of a public facilities fee begins with the selection of a planning horizon and development of projections for population and employment. These projections are used throughout the analysis of different facility categories and are summarized in **Chapter 2**.

Chapter 3 is devoted to documenting a fee in-lieu of parkland dedication under the *Quimby Act*.

Chapter 4 describes the calculation of a parks and recreation facilities impact fee, charged under the *Mitigation Fee Act*.

Chapter 5 describes the fee implementation process.

Chapter 6 presents the Mitigation Fee Act findings.

Facility Standards and Cost Allocation Approach

A facility standard is a policy that indicates the amount of facilities required to accommodate service demand. Examples of facility standards include building square feet per capita and park acres per capita. Standards also may be expressed in monetary terms such as the replacement value of facilities per capita. The adopted facility standard is a critical component in determining development's need for new facilities and the amount of the fee. Standards determine new development's fair share of planned facilities and ensure that new development does not fund deficiencies associated with the existing infrastructure.

The park fees calculated in this report use an existing inventory demand standard translated into facility costs per capita to determine new development's fair share of planned facility costs. A cost standard provides a reasonable method for converting disparate types of facilities, in this case parkland, open space and trail facilities, into a single measure of demand (capital cost per capita). The cost standard is based on the **existing inventory** of parks and recreation facilities. New development would fund the expansion of facilities at the same rate that existing development has provided facilities to date.

2. Land Use Assumptions

This chapter describes the projections of growth used in this study. The existing service population in 2010 is used to calculate the *Quimby Act* parkland dedication standard. The year 2018 is used as the base year of the study and the planning horizon is the year 2030. This chapter also describes the sources of the unit costs for land and buildings used in this study.

Land Use Types

To ensure a reasonable relationship between each fee and the type of development paying the fee, growth projections distinguish between different land use types. The land use types used in this analysis are defined as a range of densities, from less than or equal to 3.5 units per gross acre to greater than 18 units per gross acre.

Growth Projections for City of Laguna Hills

Park and recreation facilities in Laguna Hills primarily serve residents in the City of Laguna Hills. Therefore, residents comprise the park and recreation facilities service population.

Population as of 2010, the date of the most recent federal census, is used in the justification of the *Quimby* standard described in Chapter 3. The planning horizon for this analysis is 2030. Resident growth between 2018 and 2030 comprises the growth increment in this analysis. The estimate for residents in 2030 comes from the City's General Plan EIR Recreation Element.

Table 1 shows the population as of 2010 and estimates of the growth in residents between 2018 and 2030.

Table 1: Parks Service Population

	Residents
Census 2010	30,344
Existing (2018)	31,449
Growth (2018 - 2030)	<u>3,201</u>
Total (2030)	34,650

Sources: CA DOF, Table E-5, 2014; Table 5.13-4 from the 2009 General Plan EIR Recreation Element.

Occupant Densities

Occupant densities ensure a reasonable relationship between the increase in service population and amount of the fee. Developers dedicate land and/or pay the fee based on the number of housing units being constructed for residential development. The fee schedule must convert service population estimates into these measures of housing units. This conversion is done with average occupant density factors by land use density, shown in

Table 2. The residential occupant density factors below were derived from data from the 2010 US Census. Housing unit and population counts, by census block were examined using GIS analysis to identify the occupancy density of housing units. Occupancy density factors were identified for three categories in terms of dwelling units per acre.

Table 2: Occupant Density

Density Classification
(Units/Gross Acre)

≤ 3.5	3.08	Residents Per Dwelling Unit
>3.5 - ≤18	2.72	Residents Per Dwelling Unit
>18	1.42	Residents Per Dwelling Unit

Sources: 2010 Census TIGER/Line Shapefiles and the 2010 Census Summary File 1 Demographic Profile (DP1); Willdan Financial Services.

3. Parks & Recreation Facilities – Quimby Act

The following chapter documents the nexus analysis, demonstrating the need for new park and recreation facilities demanded by new development under the *Quimby Act*. The City can collect at a standard of between 3.0 and 5.0 per 1,000 residents under the *Quimby Act* land dedication requirement.

Existing Park and Recreation Facilities Inventory

The City of Laguna Hills maintains several park and recreation facilities. **Table 3** summarizes the City's existing parkland inventory as of 2010, the year of the last census. All facilities are located within the City limits.

Table 3: Park Land Inventory

	Acres Owned or Under Agreement	Improved/ Constructed Acres
<u><i>City Owned Parks</i></u>		
Beckenham Park	2.75	2.75
Cabot Park	8.60	8.60
Clarrington Park	3.49	3.49
Costeau Park	3.67	3.67
El Conejo Park	2.00	2.00
Knotty Pine Park	3.85	3.85
Laguna Hills Community/Sports Center	30.60	30.60
Mackenzie Park	2.85	2.85
Mandeville Park	3.34	3.34
Mendocino Park	3.93	3.93
San Remo Park	1.60	1.60
Santa Vittoria park	2.87	2.87
Stockport Park	3.99	3.99
Veeh Ranch Park	11.00	11.00
Subtotal	84.54	84.54
<u><i>Joint Use Agreement Facilities</i></u>		
Laguna Hillis High School (51.8 acres at 50%)	25.90	25.90
Lormarena School (9.2 acres at 50%)	4.60	4.60
San Joaquin School (10.0 acres at 50%)	5.00	5.00
Valencia School (10.6 acres at 50%)	5.30	5.30
Subtotal	40.80	40.80
<u><i>Private Parks</i>¹</u>		
Aliso Meadows Park	1.00	1.00
Casa de Laguna Park	5.25	5.25
Dapple Grey Park	3.47	3.47
Fossil Park	1.00	1.00
Gallup Park	5.17	5.17
Hidden Trail Park	2.44	2.44
Laguna Village Park	4.57	4.57
Moulton Park	2.77	2.77
Moulton Ranch Park	8.22	8.22
Nellie Gail Equestrian Center Park	20.11	20.11
Sheep Hills Park	8.00	8.00
Quail Creek Park	2.00	2.00
Bella Vista Park	0.50	0.50
Lomas Laguna Park	2.00	2.00
Sunset Place Park	0.50	0.50
Subtotal	67.00	67.00
Total - Developed Parkland	192.34	192.34

¹ Private parks must have an irrevocable offer of dedication (IOD) to be included in this inventory.

Source: City Of Laguna Hills General Plan Conservation And Open Space Element, Table COS-3, COS-4.

Park Facility Standards

Park facility standards establish a reasonable relationship between new development and the need for expanded park facilities. Information regarding the City's existing inventory of existing parks facilities was obtained from City staff.

The most common measure in calculating new development's demand for parks is the ratio of park acres per resident. In general, facility standards may be based on a jurisdiction's existing inventory of park facilities, or an adopted policy standard contained in a master facility plan or general plan. Facility standards may also be based on a land dedication standard established by the *Quimby Act*.¹

Quimby Act Standard

The *Quimby Act* specifies that the dedication requirement must be a minimum of 3.0 acres and a maximum of 5.0 acres per 1,000 residents. A jurisdiction can require residential developers to dedicate above the three-acre minimum if the jurisdiction's existing park standard at the time it adopted its *Quimby Act* ordinance justifies the higher level (up to five acres per 1,000 residents). The standard used must also conform to the jurisdiction's adopted general or specific plan standards.

The *Quimby Act* only applies to land subdivisions. The *Quimby Act* would not apply to residential development on future approved projects on single parcels, such as apartment complexes and other multi-family development.

The *Quimby Act* allows payment of a fee in lieu of land dedication. The fee is calculated to fund acquisition of the same amount of land that would have been dedicated.

The *Quimby Act* allows use of in-lieu fee revenue for any park or recreation facility purpose. Allowable uses of this revenue include land acquisition, park improvements including recreation facilities, and rehabilitation of existing park and recreation facilities.

City of Laguna Hills Park Facilities Standards

To calculate new development's need for new parks, municipalities commonly use a ratio expressed in terms of developed park acres per 1,000 residents. **Table 4** documents the City's standard as of the last Census for the *Quimby Act* standard. Because the City's standard is over five acres per 1,000 residents, the applicable standard is the maximum allowed under the *Quimby Act* of five acres per 1,000 residents. Fees for development not occurring in subdivisions charged under the *Mitigation Fee Act* will also be calculated at the 5.0 acres per 1,000 resident standard in the following chapter.

¹ California Government Code §66477.

Table 4: Level of Service Standard - Quimby Act

	Quimby Act Standard
Total - Improved Park Acreage (2010)	192.34
Service Population (Residents - 2010)	30,344
Level of Service Standard (Acres per 1,000 Residents)	6.34
Effective Level of Service Standard (Acres per 1,000 Residents) ¹	5.00

¹ The maximum allowed under the *Quimby Act* is 5.00 acres/1,000 residents.

Sources: Tables 1 and 3; Willdan Financial Services.

Parkland Unit Costs

Table 5 shows the estimated cost per acre for developing parkland, including land acquisition and improvements to make the land suitable for use as a park. The land values were developed based on an analysis of local comparable properties sold in Laguna Hills by a real estate appraiser. The values range from \$1.2 million to \$3.1 million per acre depending on density. For each density category the land value for that category is applied on the logic that nearby land will be similarly zoned and will have to be acquired to fund neighborhood parks.

Table 5: Parkland Unit Costs

Density Classification (Units/Gross Acre)	Cost
≤ 3.5	
Land Acquisition ¹	\$ 1,209,000
Improvements ²	<u>1,321,000</u>
Total	\$ 2,530,000
>3.5 - ≤18	
Land Acquisition ¹	\$ 2,829,000
Improvements ²	<u>1,321,000</u>
Total	\$ 4,150,000
>18	
Land Acquisition ¹	\$ 3,095,000
Improvements ²	<u>1,321,000</u>
Total	\$ 4,416,000

Note: Figures have been rounded.

¹ Weighted average of the assessed value of land based on a random sample of properties sold since 2015.

² Cost of improvements estimated based on the projected cost of the Aliso Hills Park Project in the City's Capital Improvement Plan

Sources: zillow .com; Orange County Treasurer Tax Collector records; City of Laguna Hills Biennial Budget, Fiscal Years 2017/18 - 2018/19; Willdan Financial Services.

Facilities Needed to Accommodate New Development

Table 6 shows the park facilities needed to accommodate new development at the existing standard. To achieve the standard by the planning horizon, depending on the amount of development subject to the *Quimby Act*, new development must fund the purchase and improvement of 16.01 acres of neighborhood and community parkland.

It is important to note, however, that not all development will necessarily be subject to the *Quimby Act*, and some development will dedicate land in lieu of paying fee, so the total indicated may not be achieved.

Table 6: Park Facilities to Accommodate New Development

Calculation		
<u>Parkland</u>		
Facility Standard (acres/1,000 residents)	A	5.00
Resident Growth (2018-2030)	B	3,201
Facility Needs (acres)	$C = (B / 1,000) \times A$	16.01

Sources: Tables 1, 4 and 5.

Cost per Capita Standard

Table 7 shows the cost per capita of acquiring land and constructing new park improvements at 5.0 acres per 1,000 resident standard.

Table 7: Cost per Capita - Existing Level of Service

Density Classification	Calculation	Land Acquisition	Improvements
≤ 3.5			
Parkland Investment (per acre)	A	\$ 1,209,000	\$ 1,321,000
Existing Level of Service (acres per 1,000 residents)	B	5.00	5.00
Total Cost Per 1,000 capita	$C = A \times B$	\$ 6,045,000	\$ 6,605,000
Cost Per Resident	$D = C / 1,000$	\$ 6,045	\$ 6,605
>3.5 - ≤18			
Parkland Investment (per acre)	A	\$ 2,829,000	\$ 1,321,000
Existing Level of Service (acres per 1,000 residents)	B	5.00	5.00
Total Cost Per 1,000 capita	$C = A \times B$	\$ 14,145,000	\$ 6,605,000
Cost Per Resident	$D = C / 1,000$	\$ 14,145	\$ 6,605
>18			
Parkland Investment (per acre)	A	\$ 3,095,000	\$ 1,321,000
Existing Level of Service (acres per 1,000 residents)	B	5.00	5.00
Total Cost Per 1,000 capita	$C = A \times B$	\$ 15,475,000	\$ 6,605,000
Cost Per Resident	$D = C / 1,000$	\$ 15,475	\$ 6,605

Sources: Tables 5 and 6; Willdan Financial Services.

Use of Fee Revenue

The City plans to use park facilities fee revenue to purchase parkland or construct improvements to add to the system of park and recreation facilities that serves new development. The City may only use impact fee revenue to provide facilities and intensify usage of existing facilities needed to serve new development. Depending on the amount of development subject to the *Quimby Act*, new development must fund the purchase/acquisition and improvement of 16.01 parkland acres through the planning horizon of 2030.

Fee Schedule

To calculate fees by land use type, the investment in park facilities is determined on a per resident basis for both land acquisition and improvement. These investment factors (shown in Table 7) are investment per capita based on the unit cost estimates and facility standards.

Tables 8 shows the parkland dedication in-lieu fee based on the *Quimby*. The fee also includes a component for park improvements based on the same 5.0 acres per 1,000 resident standard, charged under the *Mitigation Fee Act*. The investment per capita is converted to a fee per dwelling unit, based on the occupancy density assumptions presented in Table 2.

The total fee includes an administrative charge to fund costs that include: (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Table 8: Park Facilities In Lieu Fee Schedule- Quimby Act

Density (units/gross acre)	A Cost Per Capita	B Persons per DU ¹	C = A x B		D = C x 0.02		E = C + D
			Base Fee	Admin Charge ²			Total Fee
≤ 3.5							
Land Acquisition ³	\$ 6,045	3.08	\$ 18,619	\$ 372			\$ 18,991
Improvements ⁴	6,605	3.08	20,343	407			20,750
Total							\$ 39,741
>3.5 - ≤18							
Land Acquisition ³	\$ 14,145	2.72	\$ 38,474	\$ 769			\$ 39,243
Improvements ⁴	6,605	2.72	17,966	359			18,325
Total							\$ 57,568
>18							
Land Acquisition ³	\$ 15,475	1.42	\$ 21,975	\$ 440			\$ 22,415
Improvements ⁴	6,605	1.42	9,379	188			9,567
Total							\$ 31,982

¹ Persons per dwelling unit.

² Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

³ Fee in lieu of land dedication charged under the Quimby Act.

⁴ Fee for improvement of parkland charged under the Mitigation Fee Act.

Sources: Tables 2 and 7; Willdan Financial Services.

4. Parks & Recreation Facilities – Mitigation Fee Act

The City also requested that a fee for park and recreation facilities, including open space and trails, be established under the *Mitigation Fee Act*. The analysis in this Chapter builds on the assumptions from the prior Chapter to document this Park and Recreation Facilities Fee under the *Mitigation Fee Act*. If approved, this fee would be charged to residential development not occurring in subdivisions.

Mitigation Fee Act Standard

The *Mitigation Fee Act* does not dictate use of a particular type or level of facility standard for public facilities fees. To comply with the findings required under the law, facility standards must not burden new development with any cost associated with facility deficiencies attributable to existing development.² A simple and clearly defensible approach to calculating a facility standard is to use the city's existing ratio of park acreage per 1,000 residents. Under this approach, new development is required to fund new park facilities at the same level as existing residents have provided those same types of facilities to date.

Table 9 calculates the City's existing parkland standard. This standard is currently 6.12 acres per 1,000 residents. To be consistent with the parkland dedication in-lieu fees from the previous chapter, this analysis under the Mitigation Fee Act will calculate fees using the 5.0 acre per 1,000 resident standard. This policy standard is less than the existing standard.

Table 9: Existing Level of Service Standard

	Mitigation Fee Act Standard
Total - Improved Park Acreage (2018)	192.34
Service Population (Residents - 2018)	31,449
Level of Service Standard (Acres per 1,000 Residents)	6.12
Effective Level of Service Standard (Acres per 1,000 Residents) ¹	5.00

¹ Used to be consistent with the Quimby Act Standard. This standard is less than the existing standard.

Sources: Tables 1 and 3; Willdan Financial Services.

Open Space and Trail Inventory

Table 10 shows the City's current inventory of open space, including recreational trails. All properties shown in this inventory are owned by the City.

² See the *Benefit and Burden* findings in Chapter 5, *Mitigation Fee Act Findings*.

Table 10: Multi-use Trails and Protected Open Space Parcels Inventory

APN	Square Feet	Acres
625-281-02	208,009	4.78
625-101-19	267,109	6.13
625-211-03	500,351	11.49
627-531-04	433,706	9.96
625-221-Q5	308,216	7.08
627-051-16	56,146	1.29
625-192-19	273,083	6.27
627-051-17	158,269	3.63
627-041-21	62,331	1.43
625-221-04	3,420	0.08
627-041-20	108,663	2.49
627-041-22	96,892	2.22
625-182-20	397,396	9.12
627-061-25	120,176	2.76
627-071-03	9,101	0.21
627-071-04	227,421	5.22
625-112-32	156,250	3.59
627-532-01	58,531	1.34
625-041-24	154,713	3.55
625-211-01	44,641	1.02
625-212-04	229,536	5.27
625-021-21	448,204	10.29
625-212-02	152,034	3.49
625-122-16	131,338	3.02
625-123-28	167,782	3.85
	737,476	16.93
625-021-09	195,443	4.49
625-071-25	399,921	9.18
625-081-02	74,354	1.71
625-072-01	14,243	0.33
620-331-01	57,852	1.33
620-453-24	5,176	0.12
620-341-02	5,550	0.13
620-341-05	15,033	0.35
620-342-04	37,257	0.86
620-342-03	16,968	0.39
620-453-01	19,172	0.44
620-483-03	22,225	0.51
625-053-20	156,387	3.59
	581,340	13.35
625-065-19	86,430	1.98
625-053-19	66,748	1.53
625-031-04	913	0.02
625-061-01	30,515	0.70
		167.50

Source: City of Laguna Hills.

Open Space and Trails Standard

Table 11 calculates the open space and trails facility standard. This standard is based upon the total acres of existing open space and trails relative to the existing resident population in 2018.

Table 11: Open Space and Trails Standard

Acres of Multi-use Trails and Protected Open Space	167.50
Service Population	<u>31,449</u>
Open Space Acres per 1,000 Residents	5.33

Sources: Tables 1 and 10.

Table 12 presents the open space and trails cost assumptions per acre. The analysis assumes a cost of \$23,000 per acre for land acquisition, based on the average Orange County Transportation Authority cost of acquiring open space. Trail improvements are estimated at \$185,000 per acre, including hard costs and soft costs. This assumption is based on the City's costs for trail improvements from 2014, adjusted to October 2018 using the Engineering News Record's Construction Cost Index.

Table 12: Open Space and Trails Unit Costs

Land Acquisition per Acre ¹	\$ 23,000
Trail Improvement Costs per Acre ²	<u>162,000</u>
Total Trail and Open Space Cost per Acre	\$ 185,000

¹ Based on average OCTA open space acquisition costs.

² Includes hard costs and soft costs. Based on costs from 2014, adjusted to October, 2018 using the Engineering News Record's Construction Cost Index.

Source: Orange County Transportation Authority; Engineering News Record; Willdan Financial Services.

Cost per Capita Standard

Table 13 calculates cost per capita for acquiring and developing new trails and open space at the existing level of service standard. This cost per capita standard is one component of the combined park and recreation facilities standard presented in the following table.

Table 13: Cost per Capita - Trails and Open Space

	Calculation	
Trails and Open Space Investment (per acre)	A	\$ 185,000
Existing Level of Service (acres per 1,000 residents)	B	5.33
Total Cost Per 1,000 capita	$C = A \times B$	\$ 985,300
Cost Per Resident	$D = C / 1,000$	\$ 985

Sources: Tables 11 and 12.

Table 14 calculates the combined cost per capita standard used to determine the park and recreation facilities impact fee under the *Mitigation Fee Act*. Similar to the calculation under the *Quimby Act*, the costs of land acquisition and improvements are calculated at a 5.0 acre per 1,000 resident standard. Open space and trails costs per capita are calculated at the existing standard of 5.33 acres per 1,000 residents. The cost per capita for all three components (land acquisition, parkland improvements and trails and open space) is summed to determine the total cost per capita used in the parks and recreation facilities impact fee calculation.

Table 14: Combined Cost per Capita - Mitigation Fee Act

Density Classification	Calculation	Land Acquisition ¹	Improvements ¹	Trails and Open Space ²	Total per Capita
≤ 3.5					
Parkland Investment (per acre)	A	\$ 1,209,000	\$ 1,321,000	\$ 185,000	
Level of Service (acres per 1,000 residents)	B	5.00	5.00	5.33	
Total Cost Per 1,000 capita	$C = A \times B$	\$ 6,045,000	\$ 6,605,000	\$ 985,300	
Cost Per Resident	$D = C / 1,000$	\$ 6,045	\$ 6,605	\$ 985	\$13,635
>3.5 - ≤18					
Parkland Investment (per acre)	A	\$ 2,829,000	\$ 1,321,000	\$ 185,000	
Level of Service (acres per 1,000 residents)	B	5.00	5.00	5.33	
Total Cost Per 1,000 capita	$C = A \times B$	\$ 14,145,000	\$ 6,605,000	\$ 985,300	
Cost Per Resident	$D = C / 1,000$	\$ 14,145	\$ 6,605	\$ 985	\$21,735
>18					
Parkland Investment (per acre)	A	\$ 3,095,000	\$ 1,321,000	\$ 185,000	
Level of Service (acres per 1,000 residents)	B	5.00	5.00	5.33	
Total Cost Per 1,000 capita	$C = A \times B$	\$ 15,475,000	\$ 6,605,000	\$ 985,300	
Cost Per Resident	$D = C / 1,000$	\$ 15,475	\$ 6,605	\$ 985	\$23,065

¹ Charged at 5.0 acres per 1,000 residents to be consistent with the Quimby dedication standard.² Charged at 5.33 acres per 1,000 residents, based on the existing standard of trails and open space per 1,000 residents calculated in Table 11.

Sources: Tables 5, 11 and 13; Willdan Financial Services.

Fee Schedule

Table 15 shows the maximum justified park and recreation facilities impact fee schedule under the *Mitigation Fee Act*. The cost per capita from Table 14 is converted to a fee per unit

of new development based on dwelling unit densities (persons per dwelling). The total fee includes a two-percent (2.0%) administrative charge to fund costs that include: a standard overhead charge applied to City programs for legal, accounting, and other departmental and administrative support, and fee program administrative costs including revenue collection, revenue and cost accounting and mandated public reporting.

In Willdan's experience with impact fee programs, two-percent of the base fee adequately covers the cost of fee program administration. The administrative charge should be reviewed and adjusted during comprehensive impact fee updates to ensure that revenue generated from the charge sufficiently covers, but does not exceed, the administrative costs associated with the fee program.

Table 15: Parks and Recreation Facilities Fee Schedule - Mitigation Fee Act

	A	B	C = A x B	D = C x 0.02	E = C + D
Density (units/gross acre)	Cost Per Capita	Density ¹	Base Fee	Admin Charge ²	Total Fee
≤ 3.5	\$ 13,635	3.08	\$ 41,996	\$ 840	\$ 42,836
>3.5 - ≤18	21,735	2.72	59,119	1,182	60,301
>18	23,065	1.42	32,752	655	33,407

¹ Persons per dwelling unit.

² Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Sources: Tables 2 and 14; Willdan Financial Services.

5. Implementation

Impact Fee Program Adoption

Impact fee program adoption procedures are found in the *California Government Code Section 66016*. Adoption of an impact fee program requires the City Council to follow certain procedures including holding a public meeting. A fourteen-day mailed public notice is required for those registering for such notification. Data, such as an impact fee report, must be made available at least 10 days prior to the public meeting. Your legal counsel should inform you of any other procedural requirements as well as advice regarding adoption of an enabling ordinance and/or a resolution. After adoption there is a mandatory 60-day waiting period before the fees go into effect. This procedure must also be followed for fee increases.

Fee Accounting

The City should deposit fee revenues into separate restricted fee accounts for *Quimby* fees, and *Mitigation Fee Act* fees for park facilities and open space and trails facilities, respectively. Fees should only be expended pursuant to the City's Ordinance and the Act.

Programming Revenues and Projects with the CIP

The City should commit all projected fee revenues and fund balances to specific projects in a Capital Improvements Program. These should represent the types of facilities needed to serve growth and described in this report. The use of the CIP in this manner documents a reasonable relationship between new development and the use of those revenues. The CIP also provides the documentation necessary for the City to hold funds in a project account for longer than five years if necessary to collect sufficient monies to complete a project.

The City may decide to alter the scope of the planned projects or to substitute new projects as long as those new projects continue to represent an expansion of the City's facilities. If the total cost of facilities varies from the total cost used as a basis for the fees, the City should consider revising the fees accordingly.

6. Mitigation Fee Act Findings

Fees are assessed and typically paid when a building permit is issued and imposed on new development projects by local agencies responsible for regulating land use (cities and counties). To guide the imposition of facilities fees, the California State Legislature adopted the *Mitigation Fee Act* with Assembly Bill 1600 in 1987 and subsequent amendments. The *Act*, contained in *California Government Code* §§66000 – 66025, establishes requirements on local agencies for the imposition and administration of fees. The *Act* requires local agencies to document five statutory findings when adopting fees.

The five findings in the *Act* required for adoption of the maximum justified fees documented in this report are: 1) Purpose of fee, 2) Use of fee Revenues, 3) Benefit Relationship, 4) Burden Relationship, and 5) Proportionality. They are each discussed below and are supported throughout this report.

Purpose of Fee

- ♦ *Identify the purpose of the fee (§66001(a)(1) of the Act).*

We understand that it is the policy of the City that new development will not burden the existing service population with the cost of facilities required to accommodate growth. General Plan Policy LU-15 states “Review development impact fees, user charges, and mitigation fees to ensure charges are commensurate with costs and services provided.” The purpose of the fees proposed by this report is to implement this policy by providing an analysis of the justifiable parks and recreation facilities costs that can be charged through an impact fee. The fees advance a legitimate City interest by enabling the City to provide parks and recreational facilities to new development.

Use of Fee Revenues

- ♦ *Identify the use to which the fees will be put. If the use is financing facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in §65403 or §66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the facilities for which the fees are charged (§66001(a)(2) of the Act).*

Fees proposed in this report, if enacted by the City, would be available to fund expanded facilities to serve new development. Facilities funded by these fees are designated to be located within the City. Fees addressed in this report have been identified by the City to be restricted to funding parks, recreation, trails and open space facilities.

An estimate of the amount of parkland needed to serve new development is identified in *Chapter 3* of this report. More thorough descriptions of certain planned facilities, including their specific location, if known at this time, are included in master plans, capital improvement plans, or other City planning documents or are available from City staff. The City may change the list of planned facilities to meet changing needs and circumstances of new development, as it deems necessary. The fees should be updated if these amendments result in a significant change in the fair share cost allocated to new development.

Benefit Relationship

- ♦ *Determine the reasonable relationship between the fees' use and the type of development project on which the fees are imposed (§66001(a)(3) of the Act).*

We expect that the City will restrict fee revenue to the acquisition of land, construction of facilities and buildings, and purchase of related equipment, furnishings, vehicles, and services used to serve new development as described above under the “Use of Fee Revenues” finding. The City should keep fees in segregated accounts. Facilities funded by the fees are expected to provide a citywide network of facilities accessible to the additional residents associated with new development. Under the *Act*, fees are not intended to fund planned facilities needed to correct existing deficiencies. Thus, a reasonable relationship can be shown between the use of fee revenue and the new development residential and non-residential use classifications that will pay the fees.

Burden Relationship

- ♦ *Determine the reasonable relationship between the need for the public facilities and the types of development on which the fees are imposed (§66001(a)(4) of the Act).*

Facilities need is based on a facility standard that represents the demand generated by new development for those facilities. Facilities demand is determined as follows:

The service population is established based upon the number of residents living in Laguna Hills. Service population correlates to the demand for parks and recreation facilities.

For all facilities included in this analysis, demand is measured by a single facility standard (park acres per 1,000 service population or open space and trails acres per 1,000 service population) that can be applied across land use types to ensure a reasonable relationship to the type of development.

The standards used to identify growth needs are also used to determine if planned facilities will partially serve the existing service population by correcting existing deficiencies. This approach ensures that new development will only be responsible for its fair share of planned facilities, and that the fees will not unfairly burden new development with the cost of facilities associated with serving the existing service population.

Chapter 2, Land Use Assumptions provides a description of how service population and growth projections are calculated. Facility standards are described in the *Park Facility Standards* section of Chapter 3 and the *Mitigation Fee Act Standard and Open Space and Trails Standard* section of Chapter 4.

Proportionality

- ♦ *Determine how there is a reasonable relationship between the fees amount and the cost of the facilities or portion of the facilities attributable to the development on which the fee is imposed (§66001(b) of the Act).*

The reasonable relationship between each facilities fee for a specific new development project and the cost of the facilities attributable to that project is based on the estimated service population growth the project will accommodate. Fees for a specific project are based on the project's size or increases in the number of dwelling units. Larger new development projects can result in a higher service population, resulting in higher fee revenue than smaller projects in the same land use classification. Thus, the fees can ensure a reasonable relationship between a specific new development project and the cost of the facilities attributable to that project.

See *Chapter 2, Land Use Assumptions* for a description of how service population or dwelling units adjustment factors are determined for different types of land uses. See the *Fee Schedule* sections of *Chapter 3 and Chapter 4* for a presentation of the proposed facilities fees.

CITY OF LAGUNA HILLS MEMORANDUM

DATE: November 13, 2018

TO: Mayor Carruth and City Council Members

FROM: David Chantarangsu, Community Development Director

SUBJECT: City Council Agenda Item No. 5.2.1: Introduction and First Reading of an Ordinance Adding Chapter 8-07 (Citywide Park and Recreation Facilities Fees) to the Laguna Hills Municipal Code, Establishing Development Impact Fees for Non-Subdivision Residential Development Pursuant to the Provisions of Government Code Section 66000 Under the Mitigation Fee Act for Citywide Parks, Recreation and Open Space Facilities, and Adoption of a Resolution Establishing the Fees.

After the printing of the agenda materials, a typographical error was discovered in Attachment 2 of the proposed resolution. The resolution should have reflected a date of October 24, 2018 for the Final Park and Recreation Facilities Study. Also, the Cover Page for Attachment 3 should have referred to the Final Park and Recreation Facilities Study as "Attachment A" to the proposed resolution instead of Exhibit A. Staff notes the study remains unchanged and is included to ensure the resolution is presented as a complete document with its referenced attachment.

In addition, staff received a comment letter from the Building Industry Association - Orange County Chapter, objecting to the fee. The letter is attached for the City Council's reference.

Attachments

1. Revised Resolution w/ Attachment
2. Building Industry Association - Orange County Chapter Letter (11-13-18)

RESOLUTION NO. 2018-11-13-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ESTABLISHING THE CITYWIDE PARK AND RECREATIONAL FACILITIES FEES AND FINDING THAT THE ACTION IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTIONS 15273 OF THE CEQA GUIDELINES AND PUBLIC RESOURCES CODE SECTION 21080.

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, with the adoption of Ordinance 2018-8 on November 27, 2018, the City Council established a Citywide Park and Recreation Facilities Fee program imposing development impact fees for citywide parks, recreation and open space facilities for residential non-subdivisions in accordance with applicable law including without limitation Government Code section 66000, et seq. (the Mitigation Fee Act), and authorized the imposition of development impact fees in amounts to be set by subsequent City Council resolution; and

WHEREAS, Willdan Financial Services has prepared a Park and Recreation Facilities Fee Study dated October 24, 2018 (the "Nexus Study"), analyzing the level of fees required to support future residential development in the City through 2030 and determining the future development's share of the cost of public facilities and capital improvements for park, recreation and open space facilities required as a result of such development; and

WHEREAS, Citywide Park and Recreation Facilities Fees are required to provide funding for the development of City park, recreation and open space facilities to accommodate the residents of new residential development projects, which create a need for and demand upon such facilities; and

WHEREAS, Citywide Park and Recreation Facilities Fees are applied to development projects based upon the impacts that such projects have on park, recreation and open space facilities and the need therefor; and

WHEREAS, the Nexus Study is attached hereto as Attachment "A" to this resolution and incorporated herein by this reference, and has been made available for public review and a copy is on file in the City Clerk's office a copy; and

WHEREAS, pursuant to Government Code Section 66014, 66017, and 66018, proposed increases to specific user fees charged for certain services must be adopted by Resolution, following notice and Public Hearing; and

WHEREAS, notice of Public Hearing has been given pursuant to Government Code Section 6062a, oral and written presentations have been made and received, and the required Public Hearing has been held; and

WHEREAS, the City Council held and conducted a public hearing on November 13, 2018, in accordance with applicable public notice, to review and consider the Nexus Study and the potential implementation of updated and increased Fees; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. Adoption of Recitals. The foregoing recitals set forth above are true and correct and are incorporated by reference herein.

SECTION 2. Approval of Nexus Study. The Nexus Study attached as Attachment "A" is hereby approved and adopted.

SECTION 3. Citywide Park and Recreation Facilities Fee. The fee for park, recreation and open space facilities established under Chapter 8-07 (Citywide Park and Recreation Facilities Fees) of the Laguna Hills Municipal Code, imposed on each non-subdivision residential development not subject to Chapter 8-06 (Park and Dedication and In-Lieu Fee Requirements) of the Laguna Hills Municipal Code shall be as follows:

Residential Density	Fee
3.5 units per acre or less	\$ 18,206.00
3.5 units per acre to 18 units per acre	\$ 23,013.00
Greater than 18 units per acre	\$ 15,636.00

SECTION 4. Effective Date. The provisions of this Resolution shall become effective and shall be implemented 60-days following the adoption of this resolution.

SECTION 5. Environmental Exemption. The adoption of this Resolution is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 21080(b)(8) of the Public Resources Code and CEQA Guidelines section 15273(a)(4) because the fees collected herein will be used for park, recreational and open space facilities necessary to maintain an acceptable level of service on existing facilities within the city; the adoption of this resolution is not a "project" under CEQA and is exempt pursuant to CEQA Guidelines section 15378(b)(4) because it creates a government funding mechanism or other fiscal activity which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and in accordance with such determination, the City Clerk is hereby directed to file a Notice of Exemption upon adoption of this Resolution.

SECTION 6. Severability. If any adopted fee, rate, or charge adopted by this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such adjusted fee, rate, or charge shall be deemed a

separate, distinct, and independent provision of this Resolution, and such holding shall not affect the validity of the remaining user fees, rate, and charges adopted or revised herein. The City Council hereby declares that it would have adopted the Resolution and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED, APPROVED, AND ADOPTED this 13th day of November 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2018-11-13-x adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 13th day of November 2018, by the following vote:

AYES: Council Members Heft, Sedgwick, Mayor Pro Tempore Gilbert,
and Mayor Carruth

NOES: None

ABSENT: None

ABSTAIN: None

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

The seal of the City of Laguna Hills is a circular emblem. It features a central shield with a landscape scene, including a sun, mountains, and a body of water. The shield is surrounded by a wreath. The outer ring of the seal contains the text "CITY OF LAGUNA HILLS" at the top and "1991" at the bottom.

**Attachment 3
Park & Recreation
Facilities Fee Study
(Attachment A to Resolution)**

CITY OF LAGUNA HILLS

PARK AND RECREATION FACILITIES FEE STUDY

FINAL

OCTOBER 24, 2018



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1. Introduction

This report estimates the cost of new parks needed to accommodate new development in the City of Laguna Hills to update the City's park dedication and in-lieu fee requirements. The City currently has a *Quimby Act* parkland dedication in-lieu fee. This report updates that fee and also includes a nexus analysis to establish a park and recreation facilities fee under the *Mitigation Fee Act*.

Background and Study Objectives

The primary policy objective of a public facilities fee program is to ensure that new residential development pays the capital costs associated with the growth caused by the development. To fulfill this objective, public agencies should review and update their fee programs periodically to incorporate the best available information.

For projects occurring in subdivisions, the City uses the *Quimby Act* (California Government Code 66477 et seq.) to calculate parkland dedication impact fees. The *Quimby Act* allows a city to require developers to dedicate at least three acres and up to five acres per 1,000 residents, if the city's existing park standard as of the last Census justifies the higher level.

The City can impose public facilities fees, in this case for park and recreation facilities (including open space and trails facilities) under authority granted by the *Mitigation Fee Act*, contained in *California Government Code* Sections 66000 et seq. This report provides the necessary findings required by the *Act* for adoption of the fees presented in the fee schedules contained herein.

Public Facilities Financing in California

The changing fiscal landscape in California during the past 40 years has steadily undercut the financial capacity of local governments to fund infrastructure. Three dominant trends stand out:

- The passage of a string of tax limitation measures, starting with Proposition 13 in 1978 and continuing through the passage of Proposition 218 in 1996;
- Declining popular support for bond measures to finance infrastructure for the next generation of residents and businesses; and
- Steep reductions in federal and state assistance.

Faced with these trends, many cities and counties have had to adopt a policy of "growth pays its own way." This policy shifts the burden of funding infrastructure expansion from existing taxpayers onto new development. This funding shift has been accomplished primarily through the imposition of assessments, special taxes, and development impact fees also known as public facilities fees.

Organization of the Report

The determination of a public facilities fee begins with the selection of a planning horizon and development of projections for population and employment. These projections are used throughout the analysis of different facility categories and are summarized in **Chapter 2**.

Chapter 3 is devoted to documenting a fee in-lieu of parkland dedication under the *Quimby Act*.

Chapter 4 describes the calculation of a parks and recreation facilities impact fee, charged under the *Mitigation Fee Act*.

Chapter 5 describes the fee implementation process.

Chapter 6 presents the Mitigation Fee Act findings.

Facility Standards and Cost Allocation Approach

A facility standard is a policy that indicates the amount of facilities required to accommodate service demand. Examples of facility standards include building square feet per capita and park acres per capita. Standards also may be expressed in monetary terms such as the replacement value of facilities per capita. The adopted facility standard is a critical component in determining development's need for new facilities and the amount of the fee. Standards determine new development's fair share of planned facilities and ensure that new development does not fund deficiencies associated with the existing infrastructure.

The park fees calculated in this report use an existing inventory demand standard translated into facility costs per capita to determine new development's fair share of planned facility costs. A cost standard provides a reasonable method for converting disparate types of facilities, in this case parkland, open space and trail facilities, into a single measure of demand (capital cost per capita). The cost standard is based on the **existing inventory** of parks and recreation facilities. New development would fund the expansion of facilities at the same rate that existing development has provided facilities to date.

2. Land Use Assumptions

This chapter describes the projections of growth used in this study. The existing service population in 2010 is used to calculate the *Quimby Act* parkland dedication standard. The year 2018 is used as the base year of the study and the planning horizon is the year 2030. This chapter also describes the sources of the unit costs for land and buildings used in this study.

Land Use Types

To ensure a reasonable relationship between each fee and the type of development paying the fee, growth projections distinguish between different land use types. The land use types used in this analysis are defined as a range of densities, from less than or equal to 3.5 units per gross acre to greater than 18 units per gross acre.

Growth Projections for City of Laguna Hills

Park and recreation facilities in Laguna Hills primarily serve residents in the City of Laguna Hills. Therefore, residents comprise the park and recreation facilities service population.

Population as of 2010, the date of the most recent federal census, is used in the justification of the *Quimby* standard described in Chapter 3. The planning horizon for this analysis is 2030. Resident growth between 2018 and 2030 comprises the growth increment in this analysis. The estimate for residents in 2030 comes from the City's General Plan EIR Recreation Element.

Table 1 shows the population as of 2010 and estimates of the growth in residents between 2018 and 2030.

Table 1: Parks Service Population

	Residents
Census 2010	30,344
Existing (2018)	31,449
Growth (2018 - 2030)	<u>3,201</u>
Total (2030)	34,650

Sources: CA DOF, Table E-5, 2014; Table 5.13-4 from the 2009 General Plan EIR Recreation Element.

Occupant Densities

Occupant densities ensure a reasonable relationship between the increase in service population and amount of the fee. Developers dedicate land and/or pay the fee based on the number of housing units being constructed for residential development. The fee schedule must convert service population estimates into these measures of housing units. This conversion is done with average occupant density factors by land use density, shown in

Table 2. The residential occupant density factors below were derived from data from the 2010 US Census. Housing unit and population counts, by census block were examined using GIS analysis to identify the occupancy density of housing units. Occupancy density factors were identified for three categories in terms of dwelling units per acre.

Table 2: Occupant Density

Density Classification
(Units/Gross Acre)

≤ 3.5	3.08	Residents Per Dwelling Unit
>3.5 - ≤18	2.72	Residents Per Dwelling Unit
>18	1.42	Residents Per Dwelling Unit

Sources: 2010 Census TIGER/Line Shapefiles and the 2010 Census Summary File 1 Demographic Profile (DP1); Willdan Financial Services.

3. Parks & Recreation Facilities – Quimby Act

The following chapter documents the nexus analysis, demonstrating the need for new park and recreation facilities demanded by new development under the *Quimby Act*. The City can collect at a standard of between 3.0 and 5.0 per 1,000 residents under the *Quimby Act* land dedication requirement.

Existing Park and Recreation Facilities Inventory

The City of Laguna Hills maintains several park and recreation facilities. **Table 3** summarizes the City's existing parkland inventory as of 2010, the year of the last census. All facilities are located within the City limits.

Table 3: Park Land Inventory

	Acres Owned or Under Agreement	Improved/ Constructed Acres
<u>City Owned Parks</u>		
Beckenham Park	2.75	2.75
Cabot Park	8.60	8.60
Clarrington Park	3.49	3.49
Costeau Park	3.67	3.67
El Conejo Park	2.00	2.00
Knotty Pine Park	3.85	3.85
Laguna Hills Community/Sports Center	30.60	30.60
Mackenzie Park	2.85	2.85
Mandeville Park	3.34	3.34
Mendocino Park	3.93	3.93
San Remo Park	1.60	1.60
Santa Vittoria park	2.87	2.87
Stockport Park	3.99	3.99
Veeh Ranch Park	11.00	11.00
Subtotal	84.54	84.54
<u>Joint Use Agreement Facilities</u>		
Laguna Hillis High School (51.8 acres at 50%)	25.90	25.90
Lormarena School (9.2 acres at 50%)	4.60	4.60
San Joaquin School (10.0 acres at 50%)	5.00	5.00
Valencia School (10.6 acres at 50%)	5.30	5.30
Subtotal	40.80	40.80
<u>Private Parks¹</u>		
Aliso Meadows Park	1.00	1.00
Casa de Laguna Park	5.25	5.25
Dapple Grey Park	3.47	3.47
Fossil Park	1.00	1.00
Gallup Park	5.17	5.17
Hidden Trail Park	2.44	2.44
Laguna Village Park	4.57	4.57
Moulton Park	2.77	2.77
Moulton Ranch Park	8.22	8.22
Nellie Gail Equestrian Center Park	20.11	20.11
Sheep Hills Park	8.00	8.00
Quail Creek Park	2.00	2.00
Bella Vista Park	0.50	0.50
Lomas Laguna Park	2.00	2.00
Sunset Place Park	0.50	0.50
Subtotal	67.00	67.00
Total - Developed Parkland	192.34	192.34

¹ Private parks must have an irrevocable offer of dedication (IOD) to be included in this inventory.

Source: City Of Laguna Hills General Plan Conservation And Open Space Element, Table COS-3, COS-4.

Park Facility Standards

Park facility standards establish a reasonable relationship between new development and the need for expanded park facilities. Information regarding the City's existing inventory of existing parks facilities was obtained from City staff.

The most common measure in calculating new development's demand for parks is the ratio of park acres per resident. In general, facility standards may be based on a jurisdiction's existing inventory of park facilities, or an adopted policy standard contained in a master facility plan or general plan. Facility standards may also be based on a land dedication standard established by the *Quimby Act*.¹

Quimby Act Standard

The *Quimby Act* specifies that the dedication requirement must be a minimum of 3.0 acres and a maximum of 5.0 acres per 1,000 residents. A jurisdiction can require residential developers to dedicate above the three-acre minimum if the jurisdiction's existing park standard at the time it adopted its *Quimby Act* ordinance justifies the higher level (up to five acres per 1,000 residents). The standard used must also conform to the jurisdiction's adopted general or specific plan standards.

The *Quimby Act* only applies to land subdivisions. The *Quimby Act* would not apply to residential development on future approved projects on single parcels, such as apartment complexes and other multi-family development.

The *Quimby Act* allows payment of a fee in lieu of land dedication. The fee is calculated to fund acquisition of the same amount of land that would have been dedicated.

The *Quimby Act* allows use of in-lieu fee revenue for any park or recreation facility purpose. Allowable uses of this revenue include land acquisition, park improvements including recreation facilities, and rehabilitation of existing park and recreation facilities.

City of Laguna Hills Park Facilities Standards

To calculate new development's need for new parks, municipalities commonly use a ratio expressed in terms of developed park acres per 1,000 residents. **Table 4** documents the City's standard as of the last Census for the *Quimby Act* standard. Because the City's standard is over five acres per 1,000 residents, the applicable standard is the maximum allowed under the *Quimby Act* of five acres per 1,000 residents. Fees for development not occurring in subdivisions charged under the *Mitigation Fee Act* will also be calculated at the 5.0 acres per 1,000 resident standard in the following chapter.

¹ California Government Code §66477.

Table 4: Level of Service Standard - Quimby Act

	Quimby Act Standard
Total - Improved Park Acreage (2010)	192.34
Service Population (Residents - 2010)	30,344
Level of Service Standard (Acres per 1,000 Residents)	6.34
Effective Level of Service Standard (Acres per 1,000 Residents) ¹	5.00

¹ The maximum allowed under the *Quimby Act* is 5.00 acres/1,000 residents.

Sources: Tables 1 and 3; Willdan Financial Services.

Parkland Unit Costs

Table 5 shows the estimated cost per acre for developing parkland, including land acquisition and improvements to make the land suitable for use as a park. The land values were developed based on an analysis of local comparable properties sold in Laguna Hills by a real estate appraiser. The values range from \$1.2 million to \$3.1 million per acre depending on density. For each density category the land value for that category is applied on the logic that nearby land will be similarly zoned and will have to be acquired to fund neighborhood parks.

Table 5: Parkland Unit Costs

Density Classification (Units/Gross Acre)	Cost
≤ 3.5	
Land Acquisition ¹	\$ 1,209,000
Improvements ²	<u>1,321,000</u>
Total	\$ 2,530,000
>3.5 - ≤18	
Land Acquisition ¹	\$ 2,829,000
Improvements ²	<u>1,321,000</u>
Total	\$ 4,150,000
>18	
Land Acquisition ¹	\$ 3,095,000
Improvements ²	<u>1,321,000</u>
Total	\$ 4,416,000

Note: Figures have been rounded.

¹ Weighted average of the assessed value of land based on a random sample of properties sold since 2015.

² Cost of improvements estimated based on the projected cost of the Aliso Hills Park Project in the City's Capital Improvement Plan

Sources: zillow .com; Orange County Treasurer Tax Collector records; City of Laguna Hills Biennial Budget, Fiscal Years 2017/18 - 2018/19; Willdan Financial Services.

Facilities Needed to Accommodate New Development

Table 6 shows the park facilities needed to accommodate new development at the existing standard. To achieve the standard by the planning horizon, depending on the amount of development subject to the *Quimby Act*, new development must fund the purchase and improvement of 16.01 acres of neighborhood and community parkland.

It is important to note, however, that not all development will necessarily be subject to the *Quimby Act*, and some development will dedicate land in lieu of paying fee, so the total indicated may not be achieved.

Table 6: Park Facilities to Accommodate New Development

Calculation		
<u>Parkland</u>		
Facility Standard (acres/1,000 residents)	A	5.00
Resident Growth (2018-2030)	B	3,201
Facility Needs (acres)	$C = (B / 1,000) \times A$	16.01

Sources: Tables 1, 4 and 5.

Cost per Capita Standard

Table 7 shows the cost per capita of acquiring land and constructing new park improvements at 5.0 acres per 1,000 resident standard.

Table 7: Cost per Capita - Existing Level of Service

Density Classification	Calculation	Land Acquisition	Improvements
≤ 3.5			
Parkland Investment (per acre)	A	\$ 1,209,000	\$ 1,321,000
Existing Level of Service (acres per 1,000 residents)	B	5.00	5.00
Total Cost Per 1,000 capita	$C = A \times B$	\$ 6,045,000	\$ 6,605,000
Cost Per Resident	$D = C / 1,000$	\$ 6,045	\$ 6,605
>3.5 - ≤18			
Parkland Investment (per acre)	A	\$ 2,829,000	\$ 1,321,000
Existing Level of Service (acres per 1,000 residents)	B	5.00	5.00
Total Cost Per 1,000 capita	$C = A \times B$	\$ 14,145,000	\$ 6,605,000
Cost Per Resident	$D = C / 1,000$	\$ 14,145	\$ 6,605
>18			
Parkland Investment (per acre)	A	\$ 3,095,000	\$ 1,321,000
Existing Level of Service (acres per 1,000 residents)	B	5.00	5.00
Total Cost Per 1,000 capita	$C = A \times B$	\$ 15,475,000	\$ 6,605,000
Cost Per Resident	$D = C / 1,000$	\$ 15,475	\$ 6,605

Sources: Tables 5 and 6; Willdan Financial Services.

Use of Fee Revenue

The City plans to use park facilities fee revenue to purchase parkland or construct improvements to add to the system of park and recreation facilities that serves new development. The City may only use impact fee revenue to provide facilities and intensify usage of existing facilities needed to serve new development. Depending on the amount of development subject to the *Quimby Act*, new development must fund the purchase/acquisition and improvement of 16.01 parkland acres through the planning horizon of 2030.

Fee Schedule

To calculate fees by land use type, the investment in park facilities is determined on a per resident basis for both land acquisition and improvement. These investment factors (shown in Table 7) are investment per capita based on the unit cost estimates and facility standards.

Tables 8 shows the parkland dedication in-lieu fee based on the *Quimby*. The fee also includes a component for park improvements based on the same 5.0 acres per 1,000 resident standard, charged under the *Mitigation Fee Act*. The investment per capita is converted to a fee per dwelling unit, based on the occupancy density assumptions presented in Table 2.

The total fee includes an administrative charge to fund costs that include: (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Table 8: Park Facilities In Lieu Fee Schedule- Quimby Act

Density (units/gross acre)	A Cost Per Capita	B Persons per DU ¹	C = A x B		D = C x 0.02		E = C + D
			Base Fee	Admin Charge ²			Total Fee
≤ 3.5							
Land Acquisition ³	\$ 6,045	3.08	\$ 18,619	\$ 372			\$ 18,991
Improvements ⁴	6,605	3.08	20,343	407			20,750
Total							\$ 39,741
>3.5 - ≤18							
Land Acquisition ³	\$ 14,145	2.72	\$ 38,474	\$ 769			\$ 39,243
Improvements ⁴	6,605	2.72	17,966	359			18,325
Total							\$ 57,568
>18							
Land Acquisition ³	\$ 15,475	1.42	\$ 21,975	\$ 440			\$ 22,415
Improvements ⁴	6,605	1.42	9,379	188			9,567
Total							\$ 31,982

¹ Persons per dwelling unit.

² Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

³ Fee in lieu of land dedication charged under the Quimby Act.

⁴ Fee for improvement of parkland charged under the Mitigation Fee Act.

Sources: Tables 2 and 7; Willdan Financial Services.

4. Parks & Recreation Facilities – Mitigation Fee Act

The City also requested that a fee for park and recreation facilities, including open space and trails, be established under the *Mitigation Fee Act*. The analysis in this Chapter builds on the assumptions from the prior Chapter to document this Park and Recreation Facilities Fee under the *Mitigation Fee Act*. If approved, this fee would be charged to residential development not occurring in subdivisions.

Mitigation Fee Act Standard

The *Mitigation Fee Act* does not dictate use of a particular type or level of facility standard for public facilities fees. To comply with the findings required under the law, facility standards must not burden new development with any cost associated with facility deficiencies attributable to existing development.² A simple and clearly defensible approach to calculating a facility standard is to use the city's existing ratio of park acreage per 1,000 residents. Under this approach, new development is required to fund new park facilities at the same level as existing residents have provided those same types of facilities to date.

Table 9 calculates the City's existing parkland standard. This standard is currently 6.12 acres per 1,000 residents. To be consistent with the parkland dedication in-lieu fees from the previous chapter, this analysis under the Mitigation Fee Act will calculate fees using the 5.0 acre per 1,000 resident standard. This policy standard is less than the existing standard.

Table 9: Existing Level of Service Standard

	Mitigation Fee Act Standard
Total - Improved Park Acreage (2018)	192.34
Service Population (Residents - 2018)	31,449
Level of Service Standard (Acres per 1,000 Residents)	6.12
Effective Level of Service Standard (Acres per 1,000 Residents) ¹	5.00

¹ Used to be consistent with the Quimby Act Standard. This standard is less than the existing standard.

Sources: Tables 1 and 3; Willdan Financial Services.

Open Space and Trail Inventory

Table 10 shows the City's current inventory of open space, including recreational trails. All properties shown in this inventory are owned by the City.

² See the *Benefit and Burden* findings in Chapter 5, *Mitigation Fee Act Findings*.

Table 10: Multi-use Trails and Protected Open Space Parcels Inventory

APN	Square Feet	Acres
625-281-02	208,009	4.78
625-101-19	267,109	6.13
625-211-03	500,351	11.49
627-531-04	433,706	9.96
625-221-Q5	308,216	7.08
627-051-16	56,146	1.29
625-192-19	273,083	6.27
627-051-17	158,269	3.63
627-041-21	62,331	1.43
625-221-04	3,420	0.08
627-041-20	108,663	2.49
627-041-22	96,892	2.22
625-182-20	397,396	9.12
627-061-25	120,176	2.76
627-071-03	9,101	0.21
627-071-04	227,421	5.22
625-112-32	156,250	3.59
627-532-01	58,531	1.34
625-041-24	154,713	3.55
625-211-01	44,641	1.02
625-212-04	229,536	5.27
625-021-21	448,204	10.29
625-212-02	152,034	3.49
625-122-16	131,338	3.02
625-123-28	167,782	3.85
	737,476	16.93
625-021-09	195,443	4.49
625-071-25	399,921	9.18
625-081-02	74,354	1.71
625-072-01	14,243	0.33
620-331-01	57,852	1.33
620-453-24	5,176	0.12
620-341-02	5,550	0.13
620-341-05	15,033	0.35
620-342-04	37,257	0.86
620-342-03	16,968	0.39
620-453-01	19,172	0.44
620-483-03	22,225	0.51
625-053-20	156,387	3.59
	581,340	13.35
625-065-19	86,430	1.98
625-053-19	66,748	1.53
625-031-04	913	0.02
625-061-01	30,515	0.70
		167.50

Source: City of Laguna Hills.

Open Space and Trails Standard

Table 11 calculates the open space and trails facility standard. This standard is based upon the total acres of existing open space and trails relative to the existing resident population in 2018.

Table 11: Open Space and Trails Standard

Acres of Multi-use Trails and Protected Open Space	167.50
Service Population	<u>31,449</u>
Open Space Acres per 1,000 Residents	5.33

Sources: Tables 1 and 10.

Table 12 presents the open space and trails cost assumptions per acre. The analysis assumes a cost of \$23,000 per acre for land acquisition, based on the average Orange County Transportation Authority cost of acquiring open space. Trail improvements are estimated at \$185,000 per acre, including hard costs and soft costs. This assumption is based on the City's costs for trail improvements from 2014, adjusted to October 2018 using the Engineering News Record's Construction Cost Index.

Table 12: Open Space and Trails Unit Costs

Land Acquisition per Acre ¹	\$ 23,000
Trail Improvement Costs per Acre ²	<u>162,000</u>
Total Trail and Open Space Cost per Acre	\$ 185,000

¹ Based on average OCTA open space acquisition costs.

² Includes hard costs and soft costs. Based on costs from 2014, adjusted to October, 2018 using the Engineering News Record's Construction Cost Index.

Source: Orange County Transportation Authority; Engineering News Record; Willdan Financial Services.

Cost per Capita Standard

Table 13 calculates cost per capita for acquiring and developing new trails and open space at the existing level of service standard. This cost per capita standard is one component of the combined park and recreation facilities standard presented in the following table.

Table 13: Cost per Capita - Trails and Open Space

	Calculation	
Trails and Open Space Investment (per acre)	A	\$ 185,000
Existing Level of Service (acres per 1,000 residents)	B	5.33
Total Cost Per 1,000 capita	$C = A \times B$	\$ 985,300
Cost Per Resident	$D = C / 1,000$	\$ 985

Sources: Tables 11 and 12.

Table 14 calculates the combined cost per capita standard used to determine the park and recreation facilities impact fee under the *Mitigation Fee Act*. Similar to the calculation under the *Quimby Act*, the costs of land acquisition and improvements are calculated at a 5.0 acre per 1,000 resident standard. Open space and trails costs per capita are calculated at the existing standard of 5.33 acres per 1,000 residents. The cost per capita for all three components (land acquisition, parkland improvements and trails and open space) is summed to determine the total cost per capita used in the parks and recreation facilities impact fee calculation.

Table 14: Combined Cost per Capita - Mitigation Fee Act

Density Classification	Calculation	Land Acquisition ¹	Improvements ¹	Trails and Open Space ²	Total per Capita
≤ 3.5					
Parkland Investment (per acre)	A	\$ 1,209,000	\$ 1,321,000	\$ 185,000	
Level of Service (acres per 1,000 residents)	B	5.00	5.00	5.33	
Total Cost Per 1,000 capita	$C = A \times B$	\$ 6,045,000	\$ 6,605,000	\$ 985,300	
Cost Per Resident	$D = C / 1,000$	\$ 6,045	\$ 6,605	\$ 985	\$13,635
>3.5 - ≤18					
Parkland Investment (per acre)	A	\$ 2,829,000	\$ 1,321,000	\$ 185,000	
Level of Service (acres per 1,000 residents)	B	5.00	5.00	5.33	
Total Cost Per 1,000 capita	$C = A \times B$	\$ 14,145,000	\$ 6,605,000	\$ 985,300	
Cost Per Resident	$D = C / 1,000$	\$ 14,145	\$ 6,605	\$ 985	\$21,735
>18					
Parkland Investment (per acre)	A	\$ 3,095,000	\$ 1,321,000	\$ 185,000	
Level of Service (acres per 1,000 residents)	B	5.00	5.00	5.33	
Total Cost Per 1,000 capita	$C = A \times B$	\$ 15,475,000	\$ 6,605,000	\$ 985,300	
Cost Per Resident	$D = C / 1,000$	\$ 15,475	\$ 6,605	\$ 985	\$23,065

¹ Charged at 5.0 acres per 1,000 residents to be consistent with the Quimby dedication standard.² Charged at 5.33 acres per 1,000 residents, based on the existing standard of trails and open space per 1,000 residents calculated in Table 11.

Sources: Tables 5, 11 and 13; Willdan Financial Services.

Fee Schedule

Table 15 shows the maximum justified park and recreation facilities impact fee schedule under the *Mitigation Fee Act*. The cost per capita from Table 14 is converted to a fee per unit

of new development based on dwelling unit densities (persons per dwelling). The total fee includes a two-percent (2.0%) administrative charge to fund costs that include: a standard overhead charge applied to City programs for legal, accounting, and other departmental and administrative support, and fee program administrative costs including revenue collection, revenue and cost accounting and mandated public reporting.

In Willdan's experience with impact fee programs, two-percent of the base fee adequately covers the cost of fee program administration. The administrative charge should be reviewed and adjusted during comprehensive impact fee updates to ensure that revenue generated from the charge sufficiently covers, but does not exceed, the administrative costs associated with the fee program.

Table 15: Parks and Recreation Facilities Fee Schedule - Mitigation Fee Act

	A	B	C = A x B	D = C x 0.02	E = C + D
Density (units/gross acre)	Cost Per Capita	Density ¹	Base Fee	Admin Charge ²	Total Fee
≤ 3.5	\$ 13,635	3.08	\$ 41,996	\$ 840	\$ 42,836
>3.5 - ≤18	21,735	2.72	59,119	1,182	60,301
>18	23,065	1.42	32,752	655	33,407

¹ Persons per dwelling unit.

² Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Sources: Tables 2 and 14; Willdan Financial Services.

5. Implementation

Impact Fee Program Adoption

Impact fee program adoption procedures are found in the *California Government Code Section 66016*. Adoption of an impact fee program requires the City Council to follow certain procedures including holding a public meeting. A fourteen-day mailed public notice is required for those registering for such notification. Data, such as an impact fee report, must be made available at least 10 days prior to the public meeting. Your legal counsel should inform you of any other procedural requirements as well as advice regarding adoption of an enabling ordinance and/or a resolution. After adoption there is a mandatory 60-day waiting period before the fees go into effect. This procedure must also be followed for fee increases.

Fee Accounting

The City should deposit fee revenues into separate restricted fee accounts for *Quimby* fees, and *Mitigation Fee Act* fees for park facilities and open space and trails facilities, respectively. Fees should only be expended pursuant to the City's Ordinance and the Act.

Programming Revenues and Projects with the CIP

The City should commit all projected fee revenues and fund balances to specific projects in a Capital Improvements Program. These should represent the types of facilities needed to serve growth and described in this report. The use of the CIP in this manner documents a reasonable relationship between new development and the use of those revenues. The CIP also provides the documentation necessary for the City to hold funds in a project account for longer than five years if necessary to collect sufficient monies to complete a project.

The City may decide to alter the scope of the planned projects or to substitute new projects as long as those new projects continue to represent an expansion of the City's facilities. If the total cost of facilities varies from the total cost used as a basis for the fees, the City should consider revising the fees accordingly.

6. Mitigation Fee Act Findings

Fees are assessed and typically paid when a building permit is issued and imposed on new development projects by local agencies responsible for regulating land use (cities and counties). To guide the imposition of facilities fees, the California State Legislature adopted the *Mitigation Fee Act* with Assembly Bill 1600 in 1987 and subsequent amendments. The *Act*, contained in *California Government Code* §§66000 – 66025, establishes requirements on local agencies for the imposition and administration of fees. The *Act* requires local agencies to document five statutory findings when adopting fees.

The five findings in the *Act* required for adoption of the maximum justified fees documented in this report are: 1) Purpose of fee, 2) Use of fee Revenues, 3) Benefit Relationship, 4) Burden Relationship, and 5) Proportionality. They are each discussed below and are supported throughout this report.

Purpose of Fee

- ♦ *Identify the purpose of the fee (§66001(a)(1) of the Act).*

We understand that it is the policy of the City that new development will not burden the existing service population with the cost of facilities required to accommodate growth. General Plan Policy LU-15 states “Review development impact fees, user charges, and mitigation fees to ensure charges are commensurate with costs and services provided.” The purpose of the fees proposed by this report is to implement this policy by providing an analysis of the justifiable parks and recreation facilities costs that can be charged through an impact fee. The fees advance a legitimate City interest by enabling the City to provide parks and recreational facilities to new development.

Use of Fee Revenues

- ♦ *Identify the use to which the fees will be put. If the use is financing facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in §65403 or §66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the facilities for which the fees are charged (§66001(a)(2) of the Act).*

Fees proposed in this report, if enacted by the City, would be available to fund expanded facilities to serve new development. Facilities funded by these fees are designated to be located within the City. Fees addressed in this report have been identified by the City to be restricted to funding parks, recreation, trails and open space facilities.

An estimate of the amount of parkland needed to serve new development is identified in *Chapter 3* of this report. More thorough descriptions of certain planned facilities, including their specific location, if known at this time, are included in master plans, capital improvement plans, or other City planning documents or are available from City staff. The City may change the list of planned facilities to meet changing needs and circumstances of new development, as it deems necessary. The fees should be updated if these amendments result in a significant change in the fair share cost allocated to new development.

Benefit Relationship

- ♦ *Determine the reasonable relationship between the fees' use and the type of development project on which the fees are imposed (§66001(a)(3) of the Act).*

We expect that the City will restrict fee revenue to the acquisition of land, construction of facilities and buildings, and purchase of related equipment, furnishings, vehicles, and services used to serve new development as described above under the “Use of Fee Revenues” finding. The City should keep fees in segregated accounts. Facilities funded by the fees are expected to provide a citywide network of facilities accessible to the additional residents associated with new development. Under the *Act*, fees are not intended to fund planned facilities needed to correct existing deficiencies. Thus, a reasonable relationship can be shown between the use of fee revenue and the new development residential and non-residential use classifications that will pay the fees.

Burden Relationship

- ♦ *Determine the reasonable relationship between the need for the public facilities and the types of development on which the fees are imposed (§66001(a)(4) of the Act).*

Facilities need is based on a facility standard that represents the demand generated by new development for those facilities. Facilities demand is determined as follows:

The service population is established based upon the number of residents living in Laguna Hills. Service population correlates to the demand for parks and recreation facilities.

For all facilities included in this analysis, demand is measured by a single facility standard (park acres per 1,000 service population or open space and trails acres per 1,000 service population) that can be applied across land use types to ensure a reasonable relationship to the type of development.

The standards used to identify growth needs are also used to determine if planned facilities will partially serve the existing service population by correcting existing deficiencies. This approach ensures that new development will only be responsible for its fair share of planned facilities, and that the fees will not unfairly burden new development with the cost of facilities associated with serving the existing service population.

Chapter 2, Land Use Assumptions provides a description of how service population and growth projections are calculated. Facility standards are described in the *Park Facility Standards* section of Chapter 3 and the *Mitigation Fee Act Standard and Open Space and Trails Standard* section of Chapter 4.

Proportionality

- ♦ *Determine how there is a reasonable relationship between the fees amount and the cost of the facilities or portion of the facilities attributable to the development on which the fee is imposed (§66001(b) of the Act).*

The reasonable relationship between each facilities fee for a specific new development project and the cost of the facilities attributable to that project is based on the estimated service population growth the project will accommodate. Fees for a specific project are based on the project's size or increases in the number of dwelling units. Larger new development projects can result in a higher service population, resulting in higher fee revenue than smaller projects in the same land use classification. Thus, the fees can ensure a reasonable relationship between a specific new development project and the cost of the facilities attributable to that project.

See *Chapter 2, Land Use Assumptions* for a description of how service population or dwelling units adjustment factors are determined for different types of land uses. See the *Fee Schedule* sections of *Chapter 3 and Chapter 4* for a presentation of the proposed facilities fees.

Building Industry Association of Southern California, Inc.

ORANGE COUNTY CHAPTER



November 13, 2018

Mayor Mel Carruth
City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

Re: New Development Impact Fees - Parks

Dear Mayor and Council:

On behalf of our membership, I write to state our opposition to the proposed Park Development Fees.

The Building Industry Association of Southern California, Orange County Chapter (BIA/OC) is a non-profit trade association of over 1,100 member companies employing over 100,000 people affiliated with the home building industry. Our mission is to champion housing.

The proposal before you today is **a new fee on housing** that is needlessly disproportionate to Orange County standards. A study last year in the City of Cypress looked at eighteen jurisdictions in Orange County and found an average Park Development Impact Fee of \$11,688. Tonight, you are looking to nearly double the average for some housing.

The Wildan as well as the Staff Report do an excellent job of making the case as to why the city wants to collect high fees. It is important, however, to look at it from the perspective of your residents.

If you follow the recommendation, a new government fee will rack up between \$18,000,000 and \$35,000,000 in the next ten years. This will be put on the back of 3,201 potential new neighbors that will seek to call Laguna Hills their home.

While we appreciate the need for parks, Laguna Hills already exceeds Qiumby's legal limit for parks per 1,000 residents. In light of the crushing housing crisis, please consider the expansion of government this portends.

Thank you for your thoughtful consideration.

Respectfully,

Steven C. LaMotte
Chapter Executive Officer

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MIKE GARTLAN
KB HOME

VICE PRESIDENT
RICK WOOD
TRI POINTE HOMES

TREASURER/ SECRETARY
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MEMBER-AT-LARGE
SEAN MATSLER
COX CASTLE & NICHOLSON, LLP

EXECUTIVE OFFICER
STEVE LA MOTTE

24 Executive Park, Suite
Irvine, California 92614
949.553.9500 | biaoc.com

ORDINANCE NO. 2018-x

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 8-07 (CITYWIDE PARK AND RECREATION FACILITIES FEES) TO TITLE 8 (RECREATION, PARKS, AND FACILITIES) OF THE LAGUNA HILLS MUNICIPAL CODE ESTABLISHING DEVELOPMENT IMPACT FEES FOR CITYWIDE PARKS, RECREATION AND OPEN SPACE FACILITIES FOR NON-SUBDIVISION RESIDENTIAL DEVELOPMENT

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, HEREBY FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, State law authorizes the City to adopt development impact fees to mitigate the impacts to the City's infrastructure and public facilities caused by development projects; and

WHEREAS, Willdan Financial Services has prepared a Park and Recreation Facilities Fee Study dated October 24, 2018, analyzing the level of fees required to support future residential development in the City through 2030 and determining the future development's share of the cost of public facilities and capital improvements for park, recreation and open space facilities required as a result of such development; and

WHEREAS, Citywide Park and Recreation Facilities Fees are required to provide funding for the development of City park, recreation and open space facilities to accommodate the residents of new residential development projects, which create a need for and demand upon such facilities; and

WHEREAS, Citywide Park and Recreation Facilities Fees are applied to development projects based upon the impacts that such projects have on park, recreation and open space facilities and the need therefor; and

WHEREAS, the implementation of the Willdan Financial Services fee study requires revisions to the Municipal Code to clarify the imposition of the fees to be set by resolution of the City Council.

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. Chapter 8-07 (Citywide Park and Recreation Facilities Fees) is hereby added to Title 8 (Recreation, Parks, and Facilities) of the Laguna Hills Municipal Code to read as follows:

CHAPTER 8-07

CITYWIDE PARK AND RECREATION FACILITIES FEES

- 8-07.010 Declaration of purpose.
- 8-07.020 Citywide Park, Recreation and Open Space Facilities Fee established.
- 8-07.030 Creation of special fund and use of funds.
- 8-07.040 Payment of fee.
- 8-07.050 Exemptions.

8-07.010 Declaration of purpose.

The purpose of this chapter is to establish a program for requiring the payment of fees for parks, recreation and open space facilities to accommodate the residents of new residential development projects, which create a need for, and demand upon, such facilities. The Citywide Park and Recreation Facilities Fees established in this chapter are applied to residential development projects that are not subject to subdivisions of land and the Quimby Fees in Chapter 8-06, and are imposed based upon the impacts that such non-subdivision residential projects have on park, recreation and open space facilities. The imposition of development impact fees is one of the preferred methods of ensuring that new development bears a proportionate share of the cost of public facilities and service improvements necessary to accommodate such new residential development. This chapter is enacted pursuant to the Mitigation Fee Act (Government Code Sections 66000 et seq.) and the fees that will be established by resolution of the City Council will be subject to a fee study that will demonstrate the nexus, or need and costs for the public recreational and open space facilities and service improvements created by residential development projects within the City, consistent with the goals and objectives of City's General Plan, to meet the needs of the citizens of the community for parks, recreation and open space and to further the health, safety, and general welfare of the community.

8-07.020 Citywide Park, Recreation and Open Space Facilities Fee established.

Every developer who creates a residential development not subject to Chapter 8-06 (Park Dedication and In-Lieu Fee Requirements) of this Code shall be required to remit a park, recreation and open space fee as established by Resolution of the City Council for the purpose of providing citywide park, recreational and open space facilities in the City. A "residential development" for purposes of this chapter means construction or installation of new residential dwelling units which do not involve the subdivision of land, and includes second units, accessory dwelling units, mobile homes, apartments, single-family duplexes, and single-family homes on preexisting lots. The fees established herein shall be subject to Government Code Section 66000 et seq.

8-07.030. Creation of special fund and use of funds.

The fee collected pursuant to this chapter shall be deposited in a special fund created to hold the revenue generated by the fee. Moneys within the fund may be expended for citywide parks and recreational purposes, including land acquisition, park improvements, open space acquisition and trail improvements. Funds may further be used to reimburse the city for costs advanced in anticipation of new residential development, including without limitation, administrative costs incurred with respect to parks, recreational and open space projects, or to reimburse other developers who have constructed public parks, recreational facilities, open space and trails, where those facilities were beyond those needed to mitigate the impact of the developer's project or projects. In the event that bonds or similar debt instruments are issued for advanced provision of public recreational and open space facilities for which development impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments.

8-07.040. Payment of fee.

The fee established in this chapter shall be collected in accordance with the provisions of California Government Code Section 66007, as the same presently exists or may hereafter be amended from time to time.

8-07.050. Exemptions.

The following shall be exempted from payment of the fee adopted by this chapter:

- A. Alterations, renovations or expansion of an existing residential building or structure where no additional dwelling units are created. The expansion of, or change of use of an existing commercial or industrial building or structure, which creates residential dwelling(s) shall not be exempt from the fees established in this chapter. For purposes of this section, "expansion" shall be defined as any increase in the gross floor area of the existing building or structure.
- B. The replacement of a destroyed or partially destroyed or damaged building or structure with a new building or structure of the same size and use.

SECTION 3. This Ordinance shall take effect on December 28, 2018, the 31st day following the adoption of this Ordinance by the City Council.

SECTION 4. California Environmental Quality Act. The City Council determines that the adoption of this ordinance and approval of the Citywide Park and Recreation Facilities Fees program is statutorily exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 21080(b)(8) of the Public Resources Code and CEQA Guidelines section 15273(a)(4) because the fees collected from the chapter codified by this ordinance will be used for park, recreational and open space facilities necessary to maintain an acceptable level of service on existing facilities within the city; is not a "project" under CEQA and is exempt pursuant to CEQA Guidelines section 15378(b)(4) because it creates a government funding mechanism or other fiscal activity

which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

SECTION 5. Upon the effective date of this Ordinance, the provisions hereof shall supersede any inconsistent or conflicting provisions of the Laguna Hills Municipal Code.

SECTION 6. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 7. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this 27th day of November 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) §§
 CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 2018-X was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the 13th day of November 2018, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the 27th day of November 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

 MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) ss
 CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
 AND PUBLICATION

MELISSA AU-YEUNG, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of
 Laguna Hills;

That in compliance with State Laws of the State of California,
 ORDINANCE NO. 2018-X, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS,
 CALIFORNIA, ADDING CHAPTER 8-07 (CITYWIDE PARK
 AND RECREATION FACILITIES FEES) TO TITLE 8
 (RECREATION, PARKS, AND FACILITIES) OF THE
 LAGUNA HILLS MUNICIPAL CODE ESTABLISHING
 DEVELOPMENT IMPACT FEES FOR CITYWIDE PARKS,
 RECREATION AND OPEN SPACE FACILITIES FOR NON-
 SUBDIVISION RESIDENTIAL DEVELOPMENT.

on the 22nd day of November 2018, was published in summary in the Saddleback Valley
 News, and on the 6th day of December 2018, was published in summary in the
 Saddleback Valley News; and was, in compliance with City Resolution
 No. 2004-05-25-2, on the 21st day of November 2018, and the 7th day of December 2018,
 caused to be posted in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
 Laguna Hills Community Center
 La Paz Center

 MELISSA AU-YEUNG, CITY CLERK
 Laguna Hills, California



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Deputy City Manager

ISSUE: Second Reading & Adoption of Proposed Ordinance Amending the Laguna Hills Municipal Code to Clarify the City's Authority to Prohibit the Discharge of Non-Stormwater Such as Runoff from Over-Irrigation to the City's Stormwater Drainage System

RECOMMENDATION: That the City Council adopt an Ordinance entitled: "An Ordinance of the City of Laguna Hills, California, amending Section 5-36.040 of the Laguna Hills Municipal Code pertaining to prohibition on illicit connections and prohibited discharges to the Stormwater Drainage System, and repealing Section 12-20.030 of the Laguna Hills Municipal Code pertaining to running of water upon the right-of-way."

SUMMARY:

The proposed Ordinance would address the concerns raised in the Notice of Violation received by the City from the California Regional Water Quality Control Board for the San Diego Region and clarify the City's existing legal authority. Specifically, the Ordinance would (1) eliminate antiquated language in Section 12-20.030 of the Laguna Hills Municipal Code cited as the basis for the Notice of Violation, and (2) amend Section 5-36.040 of the Laguna Hills Municipal Code in a non-substantive manner to add clarifying language expressly providing that unauthorized discharges of non-stormwater, including runoff from irrigation activities, to the stormwater drainage system is prohibited.

A copy of the proposed Ordinance and the Staff Report for the introduction of the Ordinance, including attachments, are included as attachments to this report. The City

Second Reading & Adoption of Ordinance-SDRWQCB NOV

November 27, 2018

Page 2

Council introduced the Ordinance by a vote of 4-0. It is in order to adopt the Ordinance.

ATTACHMENTS:

- November 13, 2018 Introduction to Ordinance Staff Report and Attachments
- Proposed Ordinance



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 13, 2018

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Assistant City Manager/Director of Public Services

ISSUE: Introduction and First Reading of an Ordinance Amending the Laguna Hills Municipal Code to Clarify the City's Authority to Prohibit the Discharge of Non-Stormwater Such as Runoff from Over-Irrigation to the City's Stormwater Drainage System

RECOMMENDATION: That the City Council introduce for first reading, read by title only, and waive further reading of an ordinance entitled: "An Ordinance of the City of Laguna Hills, California, amending Section 5-36.040 of the Laguna Hills Municipal Code pertaining to prohibition on illicit connections and prohibited discharges to the Stormwater Drainage System, and repealing Section 12-20.030 of the Laguna Hills Municipal Code pertaining to running of water upon the right-of-way."

SUMMARY:

On June 20, 2018, the City received a Notice of Violation from the California Regional Water Quality Control Board for the San Diego Region questioning the City's legal authority to prohibit over-irrigation runoff from entering the City's stormwater drainage system, or MS4. The proposed Ordinance would address the concerns raised in the Notice of Violation and clarify the City's existing legal authority. Specifically, the Ordinance would (1) eliminate antiquated language in Section 12-20.030 of the Laguna Hills Municipal Code cited as the basis for the Notice of Violation, and (2) amend Section 5-36.040 of the Laguna Hills Municipal Code in a non-substantive manner to add clarifying language expressly providing that unauthorized discharges of non-stormwater, including runoff from irrigation activities, to the stormwater drainage system is prohibited.

BACKGROUND:

As the owner and operator of the municipal separate storm sewer system (“stormwater drainage system” or “MS4”) that ultimately discharges to the ocean and other surface waters, the City is subject to a National Pollution Discharge Elimination System (NPDES) Permit issued by the California Regional Water Quality Control Board for the San Diego Region (Regional Water Board). In 2013, the Regional Water Board adopted a new regional NPDES permit (“Regional MS4 Permit”) covering local jurisdictions in San Diego County and parts of Orange and Riverside Counties. The County of Orange and the cities in southern Orange County, including the City of Laguna Hills, became subject to this Regional MS4 Permit in 2015.

The Regional MS4 Permit requires the City to establish, maintain and enforce adequate legal authority to control pollutant discharges into and from its MS4 through ordinances and other similar means. The City’s legal authority must, among other things, authorize the City to prohibit and eliminate all illicit discharges to its MS4. This includes the obligation to effectively prohibit non-stormwater discharges into the MS4, including runoff from over-irrigation.

The Regional MS4 Permit also requires the City to undertake public outreach activities to promote, publicize, and facilitate reporting of illicit discharges to the MS4 and to implement a public education and participation program to promote and encourage practices and behaviors that prevent controllable non-stormwater discharges from entering the MS4.

Pursuant to the terms of the Regional MS4 Permit, the City must submit a Water Quality Improvement Plan Annual Report to the Regional Water Board by January 2018. With this Annual Report, the City must submit a certified statement that it has taken the necessary steps to obtain and maintain full legal authority within its jurisdiction to implement and enforce each of the requirements in the Regional MS4 Permit.

The City regulates stormwater runoff and discharges to its MS4 through a variety of ordinances, including Chapter 5-36 of the Laguna Hills Municipal Code entitled “Water Quality Control.” Municipal Code Section 5-36.040 expressly prohibits any person from causing, allowing, or facilitating any “prohibited discharge.” A “prohibited discharge” is defined to include any discharge to the MS4 which is not composed entirely of stormwater or contains a pollutant, other than those types discharges expressly set forth in the list of “discharge exceptions” contained in Section 5-36.030. In 2010, the City amended Section 5.36.030 to remove previously existing exceptions for irrigation

runoff in order to achieve compliance with the MS4 Permit issued to the City by the Regional Water Board in 2009. Ever since, the City has interpreted and applied Chapter 5-36 to prohibit over-irrigation discharges to the MS4 and has enforced this prohibition in necessary cases.

The MS4, or “stormwater drainage system,” is defined in Municipal Code Section 5-36.030 to include any “street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet, or other facility, which is part of or tributary to the . . . stormwater runoff system.” A public drainage ditch tributary to the stormwater runoff system falls within this definition and is considered part of the MS4. When the City of Laguna Hills incorporated, it adopted and maintained certain provisions of the County Code of Ordinances. One of these provisions is Section 12-20.030, entitled “Water,” which states:

“It is unlawful for any person, firm or corporation to run, or to allow to run, upon any highway or right-of-way thereof, any irrigation, waste or other water, provided that such water may be allowed to run upon or in any drain ditch along the side of such highway or right-of-way thereof if the same does not fill or overflow such ditch or run upon or percolate under the base of the paved or traveled portion of such highway.”

In January 2018, the Regional Water Board conducted a desk audit of the respective stormwater management programs of the County and southern Orange County cities to assess if they were implementing their programs in compliance with the requirements of the Regional MS4 Permit for the active and effective implementation of the over-irrigation prohibition. Based on these audits, the Regional Water Board issued Notices of Violation to the County and several Orange County cities subject to the Regional MS4 Permit, including the City of Laguna Hills.

The NOV sent to the City asserts that the City does not appear to have effective legal authority to actively and effectively implement an over-irrigation prohibition program because its existing ordinances do not clearly identify over-irrigation as a prohibited discharge and because Municipal Code Section 12-20.030 inappropriately excludes drainage ditches next to the street from being part of the MS4. The NOV and audit report also identify Regional Water Board staff’s concerns relating to the City’s public outreach and education regarding the over-irrigation prohibition and the City’s implementation of required strategies and milestones for the reduction of over-

irrigation. A copy of the June 20, 2018 NOV and related audit report sent to the City is attached to this Staff Report.

Following receipt of the NOV and audit report, City Staff implemented several updates to the City's website in response to the Regional Water Board's comments and suggestions. In addition, after consulting with the City Attorney's Office and staff from the County and other affected cities, City Staff sent a detailed letter to the Regional Water Board on October 26, 2018 responding to the assertions and concerns expressed in the June 20, 2018, NOV. A copy of Staff's response letter is attached to this Staff Report.

ANALYSIS:

State law gives the Regional Water Board authority to enforce permittees' compliance with the Regional MS4 Permit. A Notice of Violation is an informal enforcement action a Regional Water Board can take to notify a permittee of an alleged violation and give the permittee an opportunity to cure it before a formal enforcement action is initiated. If a Regional Water Board determines to take formal enforcement action against a permittee, Water Code 13385 gives it the authority to issue various kinds of compliance orders, as well as to administratively levy civil liability assessments of up to \$10,000 for each day a violation occurs.

As explained in detail in the City's October 26, 2018 response letter (Attached), City Staff disagrees with the position of the Regional Water Board reflected in the June 20, 2018, NOV and believes the City possesses adequate legal authority under its current ordinances to enforce the over-irrigation prohibition consistent with the requirements of the Regional MS4 Permit. However, in order to make the Municipal Code clearer and to avoid the potential for escalated enforcement action, City Staff is proposing two minor amendments to the Laguna Hills Municipal Code.

First, Staff proposes that Municipal Code Section 12-20.030 be removed from the Code. The Regional Water Board expressly cited the existence of Section 12-20.030 as the basis for the NOV. This regulation dates back to at least 1958, when the County was more agricultural and flood irrigation and the use of drainage ditches along the right-of-way was more common. In Staff's opinion, Section 12-20.030 does not have significant continuing utility in today's developed environment. Additionally, there are now other Municipal Code provisions that would allow the City to prevent a person from running water along the right-of-way, including the provisions of Chapter 5-36.

Second, Staff proposes amending Municipal Code Section 5-36.040.A. to add the following language clearly identifying discharges of non-stormwater to the MS4 from irrigation activities to be prohibited.

“5-36.040 Prohibition on illicit connections and prohibited discharges.

A. No person shall:

1. Construct, maintain, operate, and/or utilize any illicit connection;
2. Cause, allow or facilitate any prohibited discharge;
3. Act, cause, permit, or suffer any agent, employee, or independent contractor to construct, maintain, operate, or utilize any illicit connection, or cause, allow, or facilitate any prohibited discharge; or
- 4. Discharge non-stormwater, including, but not limited to, runoff from irrigation activities, to the stormwater drainage system, except in compliance with this chapter.**

This addition is non-substantive because the existing prohibition on causing, allowing or facilitating any prohibited discharge already encompasses runoff from over-irrigation; however, Staff believes the addition of this more express language will provide clearer direction to the public and City code enforcement staff.

ATTACHMENTS:

- Ordinance Amending 5-35.040 and Repealing 12-20.030
- Laguna Hills 26Oct2018 Letter RE NOV R9-2018-0096 and Audit
- NOV_City of Laguna Hills

ORDINANCE NO. 2018 -X

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING SECTION 5-36.040 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO PROHIBITION ON ILLICIT CONNECTIONS AND PROHIBITED DISCHARGES TO THE STORMWATER DRAINAGE SYSTEM, AND REPEALING SECTION 12-20.030 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO RUNNING OF WATER UPON THE RIGHT-OF-WAY.

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Subsection A of Section 5-36.040 (Prohibition on illicit connections and prohibited discharges) of the Laguna Hills Municipal Code is hereby amended and restated to read in its entirety as follows:

“5-36.040 Prohibition on illicit connections and prohibited discharges.

A. No person shall:

1. Construct, maintain, operate, and/or utilize any illicit connection;
2. Cause, allow or facilitate any prohibited discharge;
3. Act, cause, permit, or suffer any agent, employee, or independent contractor to construct, maintain, operate, or utilize any illicit connection, or cause, allow, or facilitate any prohibited discharge; or
4. Discharge non-stormwater, including, but not limited to, runoff from irrigation activities, to the stormwater drainage system, except in compliance with this chapter.

SECTION 2. Section 12-20.030 (Water) of the Laguna Hills Municipal Code is hereby repealed.

SECTION 3. The City Council finds that the proposed Ordinance is not subject to the California Environmental Quality Act (“CEQA”) Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. The Municipal Code amendments made by the Ordinance merely clarify

existing law prohibiting discharges of non-stormwater to the stormwater drainage system and do not authorize new programs or activities.

SECTION 4. If any section, subsection, subdivision, sentence, clause, phrase, or a portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 5. This Ordinance shall take effect on the 31st day following its adoption.

SECTION 6. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this ____ day of November, 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

Ordinance No. 2018-X

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 2018-X was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the 13th day of November 2018, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the ___ day of _____ 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Attachment: November 13, 2018 Introduction to Ordinance Staff Report and Attachments (1731 : Second Reading & Adoption of Ordinance-

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) ss
 CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
 AND PUBLICATION

MELISSA AU-YEUNG, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. 2018-X, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING SECTION 5-36.040 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO PROHIBITION ON ILLICIT CONNECTIONS AND PROHIBITED DISCHARGES TO THE STORMWATER DRAINAGE SYSTEM, AND REPEALING SECTION 12-20.030 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO RUNNING OF WATER UPON THE RIGHT-OF-WAY.

on the ___ day of _____ 2018, was published in summary in the Saddleback Valley News, and on the ___ day of _____ 2018, was published in summary in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the ___ day of _____ 2018, and the ___ day of _____ 2018, caused to be posted in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
 Laguna Hills Community Center
 La Paz Center

 MELISSA AU-YEUNG, CITY CLERK
 Laguna Hills, California



CITY OF LAGUNA HILLS

OCTOBER 26, 2018

VIA EMAIL (SanDiego@waterboards.ca.gov) & U.S. MAIL

Ms. Laurie Walsh, P.E.
San Diego Regional Water Quality Control Board
Surface Water Protection Branch
2375 Northside Drive, Suite 100
San Diego, CA 92108

SUBJECT: NOTICE OF VIOLATION NO. R9-2018-0096 AND AUDIT FINDINGS (PIN NO. CW-236131: RMITCHELL)

Dear Ms. Walsh:

This letter is provided in response to the Notice of Violation ("NOV") that the City of Laguna Hills ("City") received from the San Diego Regional Water Quality Control Board ("Regional Board") on June 20, 2018 and follows up on the City's initial email correspondence to your office on June 21, 2018. The City appreciates the time Regional Board staff took to meet with the South Orange County permittees on July 23, 2018 to discuss the NOVs, and the City looks forward to working collaboratively with the Regional Board to address and resolve the concerns it raised in the NOV and associated audit.

Notice of Violation for Failure to Prohibit Over-Irrigation as an Illicit Discharge

The NOV asserts that the City lacks the legal authority to actively and effectively prohibit over-irrigation as required by provision II.E.1.a of the Regional Municipal Separate Storm Sewer System (MS4) Permit, Order No. R9-2013-0001 ("Regional Permit") because the City's ordinances exclude drainage ditches next to the street from being part of the MS4 and do not prohibit "over-irrigation" as an illicit discharge. The City respectfully disagrees with these assertions, and the City is confident that it possesses adequate legal authority to actively and effectively prohibit and eliminate all illicit discharges and connections to its MS4, including illicit discharges resulting from over-irrigation.

The City's Water Quality Control Ordinance is codified in Chapter 5-36 of the City's Municipal Code. The City originally enacted its Water Quality Control Ordinance in 2003, in accordance

with the requirements of the Third Term MS4 Permit issued by the Regional Board in 2002, and amended it in 2010 in response to the Fourth Term MS4 Permit issued by the Regional Board in 2009. Since 2010, the City has interpreted and applied its Water Quality Control Ordinance to prohibit over-irrigation discharges to the MS4 and has enforced this prohibition against property owners.

Violations of the City's Water Quality Control Ordinance are enforceable by the City pursuant to the Ordinance and other provisions of the City's Municipal Code. Pursuant to the requirements of the Fourth Term MS4 Permit, on December 10, 2010, the City submitted a statement to the Regional Board certifying that the City had legal authority to enforce the Water Quality Control Ordinance and other relevant Municipal Code provisions. Similarly, the City will be submitting an updated certified legal authority statement in accordance with provision II.E.1.b of the Regional Permit by January 31, 2019, with the first Water Quality Improvement Plan Annual Report.

The NOV asserts that the City's ordinances inappropriately exclude drainage ditches next to the street from being part of the MS4. This assertion appears to be based solely on an incorrect reading of Section 12-20.030 of the City's Municipal Code. Section 12-20.030 is located in the Chapter of Title 12 of the Municipal Code pertaining to "Obstructions" to "Streets and Sidewalks." Section 12-20.030 is a dated public safety regulation the City inherited when it adopted the County of Orange's Code of Ordinances upon incorporation, which is intended to prohibit people from running water on the public right of way that might endanger vehicular or pedestrian traffic or compromise the pavement. Although Section 12-20.030 provides that it is not a violation of Section 12-20.030 for a person to allow water to run upon or in a drain ditch beside a highway or right-of-way if it does not overflow the ditch or run upon or percolate under the traveled portion of the highway, the City does not believe this provision has ever been interpreted or used to excuse compliance with the prohibition on illicit discharges to the City's MS4. Regardless, this language in Section 12-20.030 is superseded by the clear prohibition on illicit discharges of non-stormwater to the MS4 contained in the City's Water Quality Control Ordinance, which is the more specific and later-enacted law.

The MS4, or "stormwater drainage system," is defined in Section 5-36.030 of the Water Quality Control Ordinance to include any "street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet, or other facility, which is part of or tributary to the ... stormwater runoff system." A public drainage ditch tributary to the stormwater runoff system falls within this definition.

Section 5-36.040 of the City's Water Quality Control Ordinance prohibits any person from causing, allowing, or facilitating any "prohibited discharge." The term "discharge" is defined

broadly in the Ordinance to mean "any release, spill, leak, pump, flow, escape, leaching (including subsurface migration or deposition to groundwater), dumping or disposal of any liquid, semi-solid or solid substance." A "prohibited discharge" is defined in the Ordinance to include any "discharge" which is not composed entirely of stormwater or contains a pollutant to the "stormwater drainage system," other than those types discharges expressly set forth in the list of "discharge exceptions" contained in Section 5-36.030 of the Ordinance.

Consistent with the Third Term MS4 Permit, prior to 2010, this list of discharge exceptions in the Ordinance included exceptions for discharges from "landscape irrigation systems," "agricultural irrigation water runoff," and "lawn watering." In 2009, the Regional Board issued a Fourth Term MS4 Permit (Order No. R9-2009-0002) to the Orange County permittees, under which the landscape irrigation, irrigation water, and lawn watering (collectively, the "over-irrigation") categories of discharges were removed from the list of exempt non-stormwater discharges in the Permit. In response to the changes made in the Fourth Term MS4 Permit, in 2010, the City adopted Ordinance No. 2010-5 amending its Water Quality Control Ordinance to remove "landscape irrigation systems," "agricultural irrigation water runoff," and "lawn watering" from the list of discharge exemptions in the Ordinance.

Since 2010, discharges from irrigation activities and runoff have not been listed as permitted discharge exceptions under the City's Water Quality Control Ordinance. Therefore, over-irrigation flows which convey pollutants to the MS4 are, by definition, "prohibited discharges" under the Ordinance.

Notwithstanding that the City's existing ordinances are legally sufficient to allow the City to continue to actively and effectively enforce the over-irrigation prohibition as required by the Regional Permit, the City appreciates the concerns expressed by Regional Board staff in the NOV. Accordingly, City staff has initiated a Municipal Code amendment to remove Section 12-20.030 from the Code and to add clarifying language to the Water Quality Control Ordinance expressly prohibiting discharges of non-stormwater from irrigation activities. These Code amendments are currently scheduled for the City Council's consideration and adoption in November 2018.

Based on the foregoing, the City respectfully requests that the Regional Board rescind and/or dismiss the NOV.

Areas of Concern

The NOV and associated audit findings also identify Regional Board staff's concerns relating to the City's public outreach and education regarding the over-irrigation prohibition and the City's implementation of required strategies and milestones for the reduction of over-irrigation. Although the City believes it is in compliance with the requirements of the Regional Permit in these regards, it takes the Regional Board's concerns seriously and has already implemented changes to its website in response to the Regional Board's suggestions. These changes include the following:

- The over-irrigation prohibition is now identified directly on the City's homepage, with a link to a featured news page containing a full article explaining why irrigation runoff is prohibited and how to report irrigation runoff issues through the City's Request Tracker system.
- Two new pages have been added to the "Water Quality" portion of the City's website, which expressly identifies that excess irrigation and other activities that cause water to run off property is prohibited and includes information about, and a link to, the H2OC Stormwater Program and *Overwatering is Out* action campaign.
- Links to the water conservation web pages of the Moulton Niguel and El Toro Water Districts, as well as to the County's Stormwater Program and *Overwatering is Out* web pages, have been added to the City's "Water Quality" web page.
- "Irrigation runoff" has been added as a separate, stand-alone option for reporting an issue in the City's Request Tracker system.

Screenshots of the applicable City web pages highlighting these changes are attached hereto for the Regional Board's convenience.

The City has also updated the JRMP posted on the website to include the Enforcement Response Plan as an attachment to the plan. The City is continuing to review and evaluate its website, public outreach materials, and other program documents for improvement in concert with the Principal Permittee, the County of Orange, in response to the concerns raised by the Regional Board and will report any modifications or updates in its Water Quality Improvement Plan Annual Report.

October 26, 2018
Ms. Laurie Walsh, SDRWQCB
Page 5

If you have any questions or concerns with the City's course of action in response to the NOV or the audit, or the City's request that the Regional Board rescind or dismiss the NOV, please contact Kenneth Rosenfield at (949) 707-2650 or via email at krosenfield@lagunahillsca.gov.

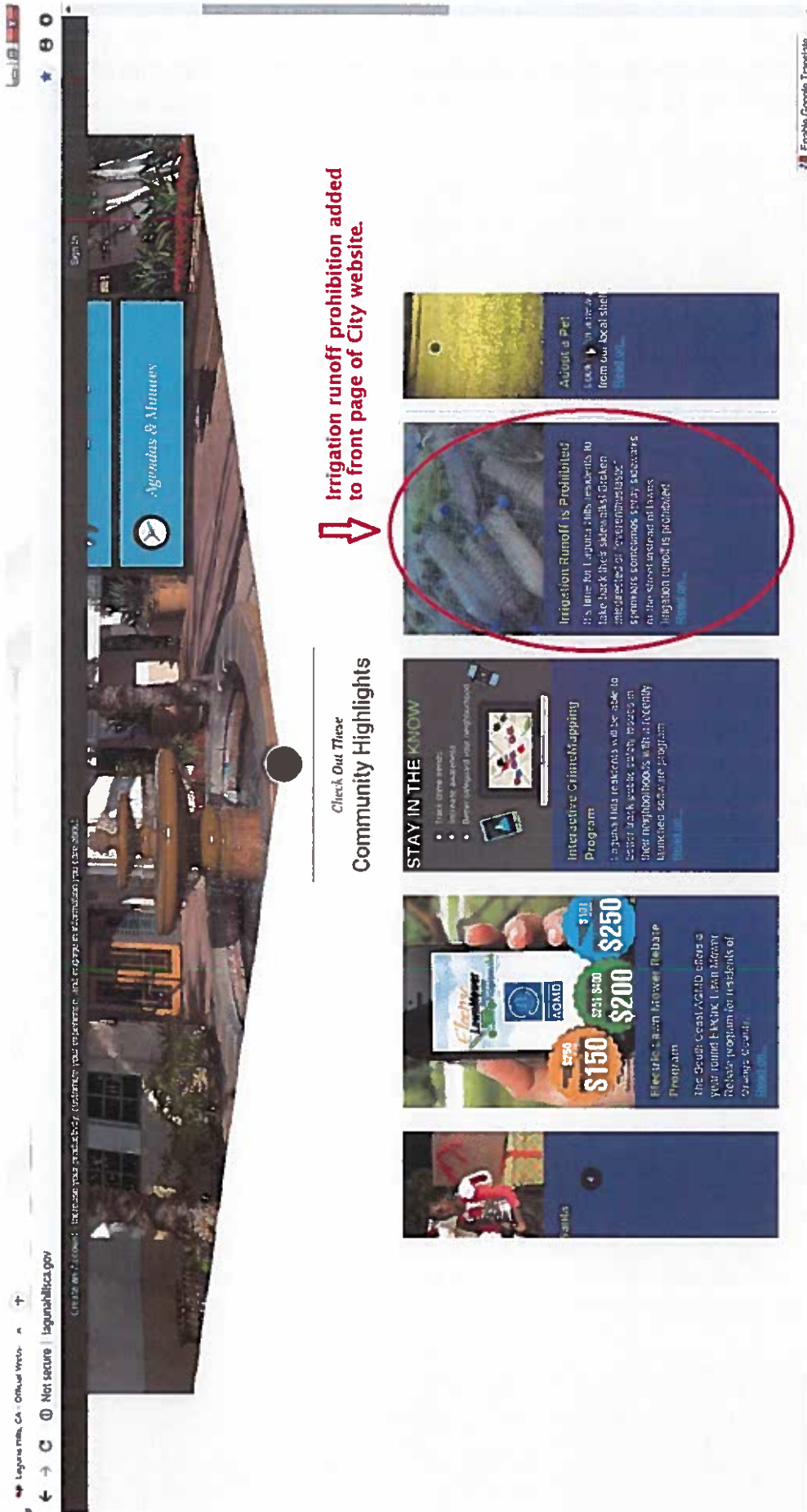
Sincerely,



Kenneth H. Rosenfield, P.E.
Assistant City Manager/Public Services Director

Attachments: Web Page Screen Shots

cc: Donald J. White, City Manager
Gregory E. Simonian, City Attorney
James H. Eggart, Assistant City Attorney



The screenshot shows the official website of Laguna Hills, California. The header includes the city name and logo, along with navigation links for Government, Services, Explore Laguna Hills, Doing Business, and How Do I... A search bar is also present.

The main content area features a large banner image of a city street. Below this, a news article titled "Irrigation Runoff is Prohibited" is displayed. The article text states: "It's time for Laguna Hills residents to take back their sidewalks! Broken, misdirected or 'overenthusiastic' sprinklers sometimes spray sidewalks or the street instead of lawns. Irrigation runoff is prohibited as it not only wastes water but also carries litter and pollutants into our waterways. Irrigation runoff issues can be reported on the Request Tracker system by clicking on the 'Report an Issue' tab on the homepage of the City's website or by visiting <http://lagunahillsca.gov/requesttracker/issue>."

A red circle highlights the article title and the URL in the text. A red arrow points to the link "http://lagunahillsca.gov/requesttracker/issue". Above the article, a red text overlay reads: "Full article on featured news page linked from irrigation runoff prohibition 'read on' front page." Below the article, there are links for "Perks & Facilities", "City Transparency", "Civic Center Public Art", "Forms, Maps & Documents", and "FAQs".

On the right side of the page, there are sections for "Other News In Featured News" and "Breakfast with Santa". The footer includes a copyright notice and a link to the city's privacy policy.

Water Quality | Laguna Hills, CA x +
 Not secure | lagunahillsca.gov/229/Water-Quality
 (To stay an informed citizen, please visit this page regularly to learn more about our water quality and to report any issues.)

Home | Government | Departments | Public Services | Public Works | Water Quality

Water Quality

Did you know irrigation runoff is prohibited? Irrigation runoff not only wastes water, it also carries litter and pollutants into our waterways. Irrigation runoff issues can be reported on the Request Tracker system by clicking on the "Report an Issue" tab on the homepage of the City's website or by clicking on the "Request Tracker" link in the sidebar.

Storm Drains

The largest source of water pollution comes from city streets, neighborhoods, construction sites and parking lots. Anything we use outside of our homes, vehicles and businesses such as motor oil, paint, pesticides, fertilizers, and cleaners, can be blown or washed into the storm drains.

The City's storm drain system is separate from the sewer system. In the sewer system, wastewater (sewage) is transported to wastewater treatment plants through underground sewer pipes. Whereas, in the storm drain system, water collected from the streets goes untreated into creeks and eventually the ocean.

Clean Waterways

Everyone's help is needed to keep the waterways clean. Together we can prevent pollutants from entering the storm drains by keeping our streets and gutter clean and following Best Management Practices. Below are some helpful resources and numbers:

- [Orange County Watershed Website](#)
- [Laguna Hills Water Quality Page](#)
- [H2OC Stormwater Program](#)
- [H2OC Overwatering is Out](#)
- [Monsoon Model Water District \(HANNON\) Water Conservation](#)
- [El Toro Water District \(ETWD\) Water Conservation](#)
- [Report an Issue Request Tracker](#)
- [Hazardous Waste Collection Information 800-452-6752](#)
- [Used Oil Collection Information 800-CLEANUP](#)
- [Chemical and Hazardous Material Spill Emergencies 911](#)
- [24 Hour Water Pollution Problem Reporting Hotline 877-89-SPILL](#)

Water Quality Documents

- [Do You Know Where Storm Water Goes? \(PDF\)](#)
- [Construction BMP's \(PDF\)](#)
- [Pool Construction / Stockpiling BMP's \(PDF\)](#)
- [Surf Riders Ocean Friendly Gardens Brochure \(PDF\)](#)
- [The Ocean Begins at Your Front Door \(PDF\)](#)

Added new H2OC brand logo to City's water quality page with link to RequestTracker.

Added links to MNWD, ETWD, H2OC & RequestTracker websites under helpful resources on City's water quality page.

Added irrigation runoff prohibition to City's water quality page with link to RequestTracker.

Overwatering is Out | Laguna Hills
 Not secure | lagunahillsca.gov/170/Overwatering-is-Out
 (Create an account) Increase your protection of the environment and enjoy a sustainable culture today.

LAGUNA HILLS
California

Home | Government | Departments | Public Services | Public Works | [OverwateringIsOut.org](#)

Government Services Explore Laguna Hills Doing Business How Do I...

Water Quality
 OC Stormwater Program
Overwatering is Out

Register for Class
 Report an Issue
 Current Planning Projects
 Community Voice
 Agendas & Minutes

Overwatering is Out

Water that runs off your property from excess irrigation, car washing or hosing down sidewalks is prohibited, and is both a water use efficiency issue and a stormwater issue. Much like during rainy weather, runoff during dry weather flows down streets and sidewalks, picking up pollutants (e.g. litter, oil, dog poop, etc.) on its way catch basins and eventually to the ocean. In short, the less water we have flowing through the streets during dry weather, the less potential we have for pollutants to find their way into the Pacific Ocean. Getting your outdoor irrigation under control makes a big difference in preventing runoff and water pollution. Get more tips on easy things you can do to protect Orange County's world famous beaches at [OverwateringIsOut.org](#)

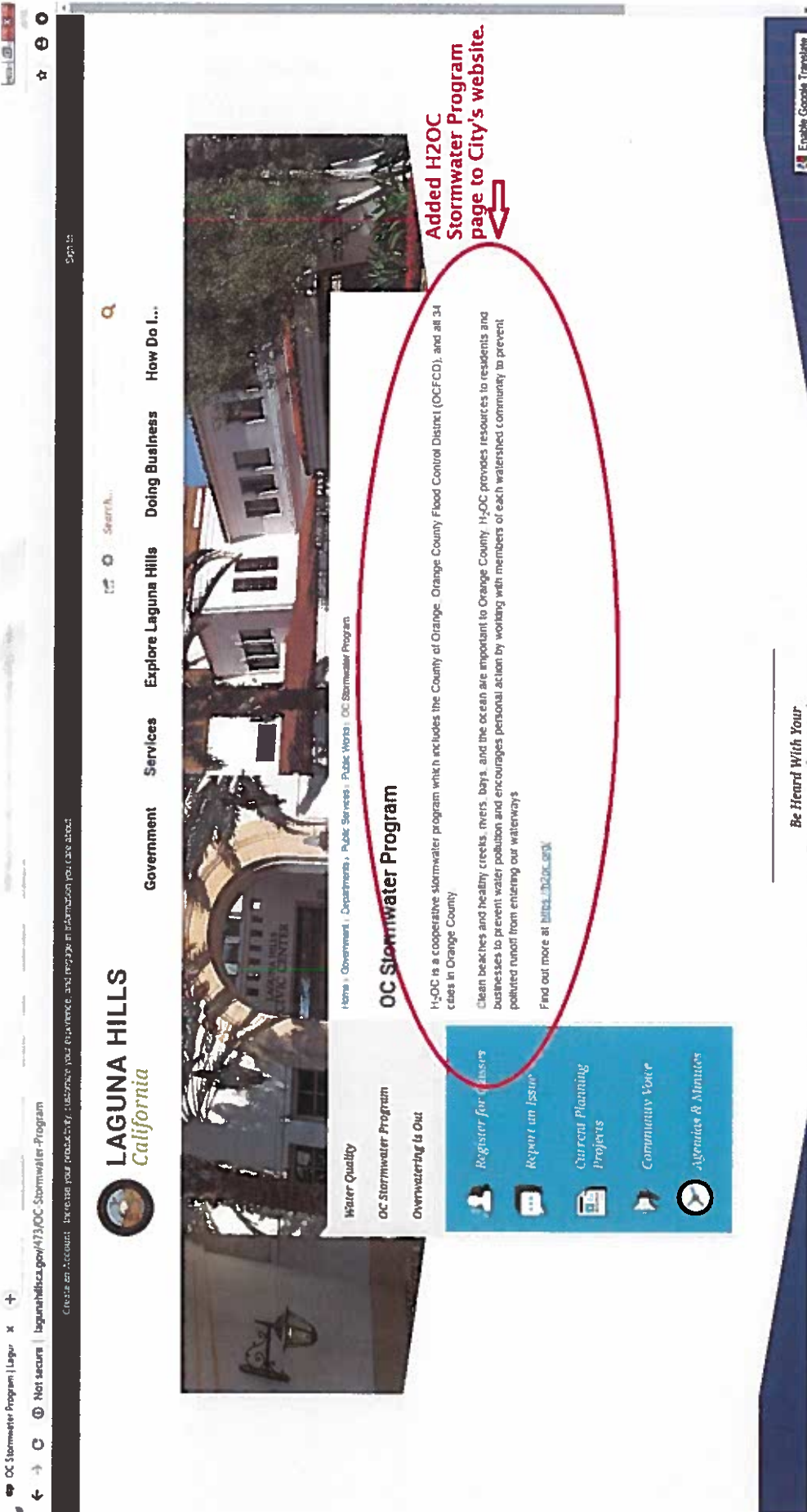
OverwateringIsOut.org is an H2OC initiative of the Orange County Stormwater Program, which comprises the County of Orange and all 34 Orange County cities. H2OC was created with the goal of inspiring Orange County residents to help keep our local waterways healthy for generations to come. The materials on these pages have been created in close collaboration with our partners, including the Municipal Water District of Orange County and the University of California Cooperative Extension.

Be Heard With Your

Enable Google Translate

Overwatering is Out in left menu previously linked directly to H2OC website. Added this page on City's website instead.

Added H2OC Overwatering is Out page to City's website.



EDMUND G. BROWN JR.
GOVERNORMATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Diego Regional Water Quality Control Board

June 20, 2018

Sent via email

Mr. Ken Rosenfield
City of Laguna Hills
25201 Paseo De Alicia 150
Laguna Hills, CA 92653

In reply refer to / attn:
PIN No. CW-236131: RMitchell

Subject: Notice of Violation No. R9-2018-0096, City of Laguna Hills; Violation of the Regional Municipal Separate Storm Sewer System (MS4) Permit

Mr. Rosenfield:

Enclosed is Notice of Violation (NOV) No. R9-2018-0096 issued to the City of Laguna Hills, hereinafter the City, for violation of the Regional MS4 Permit, Order No. 2013-0001. As described in the attached NOV, the violation is subject to further enforcement pursuant to the Water Code. The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) reserves the right to take any enforcement action authorized by law.

In making the determination of whether and how to proceed with further enforcement action, the San Diego Water Board will consider the severity and effect of the violation, the level of cooperation, the time it takes to correct the identified violations, and the sufficiency of the corrections. To avoid further enforcement action by the San Diego Water Board on this violation, **the City must take immediate actions to establish, maintain, and enforce adequate legal authority within its jurisdiction to control pollutant discharges into and from its municipal separate storm sewer system through status, ordinance, permit, contract, order, or similar means.**

Please send written correspondence in response to this letter to SanDiego@waterboards.ca.gov. Electronic documents must be submitted as a single file, in Portable Document Format (PDF) format, and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must also include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: **PIN: CW-236131: RMitchell**.

For questions pertaining to the subject matter, please contact Roger Mitchell at (619) 521-5898 or roger.mitchell@waterboards.ca.gov.

Respectfully,

Laurie Walsh, P.E.
Senior Water Resource Control Engineer

TOMAS MORALES, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

Enclosures: NOV No. R9-2018-0096; Violation of the Regional Municipal Separate Storm Sewer System (MS4) Permit, Order No. 2013-0001; NPDES No. CAS0109266

Tech Staff Info & Use	
Enforcement ID	429883
Violation ID	867007
WDID	9 30M1000288
NPDES No.	CAS0109266

NOTICE OF VIOLATION

No. R9-2018-0096

Mr. Ken Rosenfield
City of Laguna Hills
25201 Paseo De Alicia 150
Laguna Hills, CA 92653

Violation of the Order
No. R9-2013-0001,

June 20, 2018

The City of Laguna Hills, hereinafter the City, is the owner and operator of the City of Laguna Hills Municipal Separate Storm Sewer System (MS4). The City is hereby notified that the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) reserves the right to take any enforcement action authorized by law for the violations described herein.

The City is in violation of provision II.E.1.a of the Regional MS4 Permit. The violation and areas of concern described and documented below were identified by San Diego Water Board staff in January 2018 while conducting an audit of the Copermittee's Jurisdictional Runoff Management Program (JRMP), an essential element of the MS4 program. The purpose of the audit was to assess if Copermittees are implementing their storm water management programs in accordance with the requirements of the San Diego Water Board Regional MS4 Permit,¹ Order No. R9-2013-0001 (Regional MS4 Permit) for the active and effective implementation of the over-irrigation prohibition. A Copermittees compliance with the discharge prohibition, specified in provision II.A.1.b of the Regional MS4 Permit, requires an active and effective implementation of the Regional MS4 Permit provisions II.B.3, II.D.2, II.E.1, II.E.2, II.E.5, II.E.6, II.E.7, and II.F.2.

A. Summary of Violation

Failure to Prohibit Over-Irrigation as an Illicit Discharge

Provision II.E.1.a of the Regional MS4 Permit requires that each Copermittee establish, maintain, and enforce adequate legal authority within its jurisdiction to control pollutant discharges into and from its MS4 through statute, ordinance, permit, contract, order, or similar means. This legal authority must, at a minimum, authorize the Copermittee to prohibit and eliminate all illicit discharges and connections to its MS4.

Based on the findings presented in the January 2018 *Regional MS4 Permit Audit of Discharge Prohibitions* (included as Attachment 1 of this Notice of Violation) the City's ordinances fail to address the requirements of the Regional MS4 Permit, as they do not prohibit over-irrigation. Attachment C of the Regional MS4 Permit clearly defines an MS4 to include ditches "a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) ..." The City's ordinance inappropriately excludes drainage ditches next to the street from being a part of the MS4. Therefore, the City does not appear to have effective legal authority to actively and effectively implement an over-irrigation prohibition program.

¹ As amended by Orders Nos. R9-2015-0001 (Orange County) and R9-2015-0100 (Riverside County)

B. Areas of Concern

Promoting, Publicizing, and Facilitating Public Reporting of Illicit Discharges

Provision II.E.2.b.(3) of the Regional MS4 Permit requires each Copermittee to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges to or from the MS4.

Based on the findings presented in the January 2018 *Regional Permit Audit of Discharge Prohibitions* the City has failed to promote, publicize and facilitate public reporting of over-irrigation as an illicit discharge on its online home page and Water Quality web page. Specifically, none of these web pages identifies that over-irrigation runoff is a prohibited discharge.

Promoting, Publicizing, and Implementing the Overwatering is Out Action Campaign

Provision II.E.7 of the Regional MS4 Permit requires each Copermittee to implement, individually or with other Copermittees, a public education and participation program in accordance with the strategies identified in the Water Quality Improvement Plan to promote and encourage the development of programs, management practices, and behaviors that reduce the discharge of pollutants in storm water to the maximum extent practicable, prevent controllable non-storm water discharges from entering the MS4, and protect water quality standards in receiving waters. The public education and participation program must be implemented in accordance with the strategies in the Water Quality Improvement Plan described pursuant to provision B.3.b.(1).

Based on the findings presented in the January 2018 *Regional Permit Audit of Discharge Prohibitions* the City has failed to provide any information on its home page and Water Quality web page about the Overwatering is Out action campaign.

South Orange County Watershed Management Area Plan Strategies and Milestones: Prohibitions and Limitations Compliance Option

Provision II.B.3.c of the Regional MS4 Permit provides each Copermittee with the option to utilize the implementation of the Water Quality Improvement Plan to demonstrate compliance with the requirements of provisions A.1.a, A.1.c, A.1.d, A.2, and A.3.b within a Watershed Management Area (WMA). The South Orange County Copermittees have incorporated provision B.3.c of the Regional MS4 Permit for the South Orange County WMA Plan. The South Orange County WMA Plan implements the Prohibitions and Limitations Compliance Option and establishes numeric goals, strategies, and annual milestones to meet the requirements of provision B.3.c for the high priority water quality conditions and priority water quality conditions, as specified in the approved South Orange County Water Quality Improvement Plan, and associated pollutants for estuaries, lagoons, ocean waters, and inland receiving waters.

Based on the findings presented in the January 2018 *Regional Permit Audit of Discharge Prohibitions* the South Orange County Copermittees, which includes the City, are relying on compliance with the requirements of provision B.3.c through a significant level of non-structural Best Management Practice (BMP) strategies inclusive of the reduction of over-irrigation, the Overwatering is Out campaign, and implementation of their JRMPs. South Orange County Copermittees also rely on these non-structural BMP strategies to meet the requirements of the Bacteria Total Maximum Daily Load schedules. The San Diego Water Board will be closely reviewing the South Orange County Copermittees

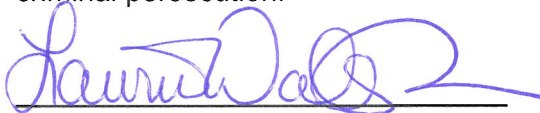
implementation of the strategies and milestones identified for provision B.3.c requirements in the South Orange County Copermittees next Water Quality Improvement Plan annual report and JRMP annual reports. The evaluation by the San Diego Water Board will include whether or not the South Orange County Copermittees should remain enrolled under provision B.3.c.

C. Summary of Potential Enforcement Options

The violation cited above may subject the City to additional enforcement by the San Diego Water Board, including a potential civil liability assessment of up to \$10,000 per day of violation, pursuant to Water Code sections 13385 and/or 13399.33. The San Diego Water Board may also administer any of the following enforcement actions:

Other Potential Enforcement Actions	Applicable Water Code Section
Technical or Investigative Order	Sections 13267 or 13383
Cleanup and Abatement Order	Section 13304
Cease and Desist Order	Sections 13301 – 13303
Time Schedule Order	Sections 13300, 13308
Administer Civil Liability	Sections 13265, 13323

In addition, the San Diego Water Board may refer the matter to other agencies, refer the matter to the State Attorney General for injunctive relief, or refer the matter to the municipal or District Attorney for criminal persecution.



Laurie Walsh, P.E.
 Senior Water Resource Control Engineer

Tech Staff Info & Use	
Enforcement ID	429883
Violation ID	867007
Inspection ID	2038334
WDID	9 30M1000288
Order No.	R9-2013-0001, as amended by Orders Nos. R9-2015-0001 and R9-2015-0100
NPDES No.	CAS0109266

ORDINANCE NO. 2018 -X

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING SECTION 5-36.040 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO PROHIBITION ON ILLICIT CONNECTIONS AND PROHIBITED DISCHARGES TO THE STORMWATER DRAINAGE SYSTEM, AND REPEALING SECTION 12-20.030 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO RUNNING OF WATER UPON THE RIGHT-OF-WAY.

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Subsection A of Section 5-36.040 (Prohibition on illicit connections and prohibited discharges) of the Laguna Hills Municipal Code is hereby amended and restated to read in its entirety as follows:

“5-36.040 Prohibition on illicit connections and prohibited discharges.

A. No person shall:

1. Construct, maintain, operate, and/or utilize any illicit connection;
2. Cause, allow or facilitate any prohibited discharge;
3. Act, cause, permit, or suffer any agent, employee, or independent contractor to construct, maintain, operate, or utilize any illicit connection, or cause, allow, or facilitate any prohibited discharge; or
4. Discharge non-stormwater, including, but not limited to, runoff from irrigation activities, to the stormwater drainage system, except in compliance with this chapter.

SECTION 2. Section 12-20.030 (Water) of the Laguna Hills Municipal Code is hereby repealed.

SECTION 3. The City Council finds that the proposed Ordinance is not subject to the California Environmental Quality Act (“CEQA”) Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. The Municipal Code amendments made by the Ordinance merely clarify

existing law prohibiting discharges of non-stormwater to the stormwater drainage system and do not authorize new programs or activities.

SECTION 4. If any section, subsection, subdivision, sentence, clause, phrase, or a portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 5. This Ordinance shall take effect on the 31st day following its adoption.

SECTION 6. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this 27th day of November, 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

Ordinance No. 2018-X

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 2018-X was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the 13th day of November 2018, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the 27th day of November 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Attachment: Proposed Ordinance (1731 : Second Reading & Adoption of Ordinance-SDRWQCB NOV)

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
AND PUBLICATION

MELISSA AU-YEUNG, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. 2018-X, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING SECTION 5-36.040 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO PROHIBITION ON ILLICIT CONNECTIONS AND PROHIBITED DISCHARGES TO THE STORMWATER DRAINAGE SYSTEM, AND REPEALING SECTION 12-20.030 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO RUNNING OF WATER UPON THE RIGHT-OF-WAY.

on the 22nd day of November 2018, was published in summary in the Saddleback Valley News, and on the 6th day of December 2018, was published in summary in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the 21st day of November 2018, and the 7th day of December 2018, caused to be posted in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
Laguna Hills Community Center
La Paz Center

MELISSA AU-YEUNG, CITY CLERK
Laguna Hills, California

Attachment: Proposed Ordinance (1731 : Second Reading & Adoption of Ordinance-SDRWQCB NOV)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018
TO: Chair and Agency Members
FROM: Jennifer Lee
Assistant City Clerk
ISSUE: Approval of Minutes for November 13, 2018, Regular Meeting

RECOMMENDATION: That the Planning Agency approve the Minutes for the November 13, Regular Meeting.

ATTACHMENTS:

- 181113 PA Minutes

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mel Carruth, Mayor
SECONDER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

4. PLANNING AGENCY

Mayor Carruth recessed the City Council Meeting, and acting in capacity as Chair, called the Regular Meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:25 p.m.

4.1. ROLL CALL OF PLANNING AGENCY MEMBERS

Attendee Name	Title	Status	Arrived
Mel Carruth	Chair	Present	
Dore J. Gilbert, M.D.	Vice Chair	Present	
Janine Heft	Agency Member	Present	
Don Sedgwick	Agency Member	Present	

4.2. PUBLIC COMMENTS

There were no Public Comments.

4.3. APPROVAL OF MINUTES FOR OCTOBER 9, 2018, REGULAR MEETING

4.3.1 Approval of Minutes for the October 9, 2018, Regular Meeting

Recommendation: That the Planning Agency approve the Minutes for the October 9, 2018, Regular Meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Don Sedgwick, Council Member
SECONDER:	Janine Heft, Council Member
AYES:	Mel Carruth, Mayor, Dore J. Gilbert, M.D., Mayor Pro Tempore, Janine Heft, Council Member, Don Sedgwick, Council Member

4.4. ADMINISTRATIVE REPORTS

There were no Planning Agency Administrative Reports.

4.5. PLANNING AGENCY PUBLIC HEARINGS

There were no Planning Agency Public Hearings.

PLANNING AGENCY ADJOURNMENT

Chair Carruth adjourned the Planning Agency Meeting and, acting in the capacity of Chair/Mayor, called the Joint Planning Agency/City Council meeting to order at 7:26 p.m.

JOINT PLANNING AGENCY/CITY COUNCIL MEETING**ROLL CALL OF JOINT PLANNING AGENCY/CITY COUNCIL MEETING**

Attendee Name	Title	Status	Arrived
Mel Carruth	Chair/Mayor	Present	
Dore J. Gilbert, M.D.	Vice Chair/Mayor Pro Tempore	Present	
Janine Heft	Agency/Council Member	Present	
Don Sedgwick	Agency/Council Member	Present	

PUBLIC COMMENTS

There were no Public Comments.

PUBLIC HEARING

Site Development Permit/ Conditional Use Permit/ Variance/ Zone Text Amendment No. 6-15-3234, a Request by Moulton Niguel Water District to Operate a Government Facility Consisting of a New Operations Center Involving the Construction of Three New Buildings Totaling 64,664 Square Feet for Administrative Offices, Field Crew Operations, and Vehicle Repair, Renovation of Two Existing Buildings Totaling 21,735 Square Feet for Warehousing and Storage Purposes, Expansion and Relocation of Fueling Facilities, Vehicle and Equipment Storage, and Utilizing Existing Non-Compliant Driveway Access on Property Located at 26161 Gordon Road, and Consideration of Zoning Text Amendments to Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code, Amending Table 9-32.040 to Remove the 25 Percent Open Space Requirement for Government Uses, Revising Chapter 9-32 by Adding a New Section 9-32.050 to Permit Outdoor Storage in the C/PI Zone for Government Uses, and by Adding a New Section 9-32.060 (Fences, Walls and Hedges) to Permit Fences Up to Eight (8) Feet High for Government Uses

Community Development Director Chantarangsu reviewed the information provided in the staff report, provided a PowerPoint presentation and responded to Planning Agency/City Council requests for additional information.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018
TO: Mayor and Council Members
FROM: David Chantarangsu
Community Development Director
ISSUE: A Proposed Resolution Establishing a New Apiary Registration Fee.

RECOMMENDATION: That the City Council: (1) Conduct a Public Hearing; (2) Find and determine that the proposal is statutorily exempt from the California Environmental Quality Act (CEQA) per Section 15273 of the CEQA Guidelines and Public Resources Code Section 21080(B)(8); and (3) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, establishing a new Apiary Registration Fee".

SUMMARY:

Earlier this year, the City Council adopted Ordinance 2018-3 to allow apiaries as a permitted use in the Estate Residential zoning district subject to certain provisions and to add property maintenance standards related to apiaries (Attachment 1). The adoption of a registration fee was not included with the Ordinance. Staff recommends adoption of the attached Resolution, which would establish a new Apiary Registration Fee.

BACKGROUND:

User fees shift the burden of paying for specific governmental services away from the general population to the specific recipients who benefit from the service. Pursuant to the provisions of the California Constitution and the laws of the State of California, the City of Laguna Hills is authorized to adopt and implement fees, rates, and charges for municipal services, provided that such fees, rates, and charges do not exceed the estimated reasonable cost of providing such services.

Apiary Registration Fee

November 27, 2018

Page 2

Processing the proposed apiary registrations does involve some staff time and expense. Therefore staff proposes a \$50 registration fee for new registrations, and no fee for renewals (which require only minimal updates to the existing registration).

Staff calculated the anticipated staff time needed to review the application and complete the registration process. While the proposed fee represents only 57% recovery for the anticipated cost, the low fee is meant to encourage registration and to be comparable to similar permits in other jurisdictions. For example, the current fees for backyard beekeeping permits in the City of Laguna Beach and the City of Fullerton are both \$75. The no-fee annual renewal incentivizes beekeepers to keep their registration current, allowing the City to more accurately track apiaries in the City.

Staff recommends that the City Council conduct the required Public Hearing and adopt the proposed Resolution establishing the Apiary Registration Fee. If approved, the fee established pursuant to the proposed Resolution will take effect and will be implemented sixty (60) days following the date of adoption – January 26, 2019.

The Resolution to adopt the proposed fee and a fee calculation worksheet are Attachment 2.

CEQA FINDINGS:

Staff recommends that the City Council find that adoption of the proposed Resolution be found statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15273 of the CEQA Guidelines and Public Resources Code Section 21080(B)(8). In accordance with such determination, staff will file a Notice of Exemption immediately upon adoption of the proposed Resolution.

FISCAL IMPACT:

By establishing the recommended fee, the City will be able to recover much of the estimated cost of providing the service and reduce the subsidy borne by the City's General Fund.

ATTACHMENTS:

- Attachment 1 - Ordinance 2018-3 (ZTA-8-17-3966)
- Attachment 2 - Proposed Fee Resolution & Exhibit A (Fee Calculation Worksheet)

Attachment 1

Ordinance 2018-3 (ZTA-8-17-3966)



ORDINANCE NO. 2018-3

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADOPTING ZONE TEXT AMENDMENT NO. 8-17-3966, AN AMENDMENT TO TITLE 9 (ZONING AND SUBDIVISIONS) OF THE LAGUNA HILLS MUNICIPAL CODE, MODIFYING CHAPTERS 9-04 (DEFINITIONS), 9-10 (ZONING DISTRICTS ESTABLISHED), 9-12 (ESTATE RESIDENTIAL DISTRICT), AND 9-74 (PROPERTY MAINTENANCE) TO ALLOW APIARIES AS A PERMITTED USE IN THE ESTATE RESIDENTIAL DISTRICT SUBJECT TO CERTAIN PROVISIONS AND TO ADD PROPERTY MAINTENANCE STANDARDS RELATED TO APIARIES

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, HEREBY FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code (LHMC) establishes allowable uses of property within all zoning districts in the City; and

WHEREAS, Apiaries are permitted in the Estate Residential zoning district with approval of a conditional use permit; and

WHEREAS, the City has been made aware of unpermitted private/ non-commercial apiaries on certain private properties in the Estate Residential zoning district; and

WHEREAS, a vibrant and healthy honey bee population is vital to the health and success of flowering plants, fruit trees, and many agricultural crops and home gardens in California by providing pollination services and by furnishing honey, beeswax, and other useful products; and

WHEREAS, domestic strains of honey bees have been selectively bred for desirable traits, including gentleness, honey production, reduced swarming, pollination attributes, and other characteristics which are desirable to foster and maintain among the honey bee population of Laguna Hills; and

WHEREAS gentle strains of honey bees can be maintained within populated areas in reasonable densities to fill the ecological niche and exclude unwanted and undesirable types of bees, without causing a nuisance if the honey bees are properly located, carefully managed, and maintained; and

WHEREAS, the City Council desires to reduce the administrative cost to residents who wish to keep honey bees on their residential properties; and

WHEREAS, improper keeping of honey bees can cause a threat to the health, safety, and enjoyment of residents, primarily because of the risk of stinging; and

WHEREAS, This Ordinance is a City-initiated zoning text amendment subject to Chapter 9-90 of the LHMC; and

WHEREAS, The City Council of the City of Laguna Hills has held a duly noticed public hearing and considered public comments and written and oral information and testimony presented by City staff, community residents, and other interested parties at a public hearing held on June 12, 2018.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. The City Council of the City of Laguna Hills hereby finds and determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, Title 14, Chapter 3, Sections 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 3. The required findings by the City for approval of a Zone Text Amendment, in accordance with Section 9-92.080(A) of the Laguna Hills Municipal Code, have been met and made as follows:

1. That the amendment or plan is consistent with the intent of the goals and policies of the general plan as a whole, and is not inconsistent with any element thereof:

The Estate Residential (ER) land use designation, as defined by the General Plan, is established for the development and preservation of very low-density residential development, characterized by large-lot single-family residential properties that permit the keeping of domesticated farm animals and which are equestrian-oriented. The ER designation has a rural characteristic which is consistent with keeping bees, and in turn, the honeybees support the General Plan goal of beautifying and enhancing the character of the community (LU-2.3, LU-4.5) by providing pollination services to local gardens and landscape. Bee-keeping is also consistent with the goals and policies of the General Plan related to sustainability and conservation (COS-1.12, COS-2.6). The keeping of bees is an activity that is currently permitted with a conditional use permit in the ER designation. The proposed apiary registration procedure does not affect consistency with any element of the General Plan nor does it interfere with any stated goal or policy thereof.

2. That the amendment or plan is necessary to prescribe reasonable controls and standards for affected land uses to insure compatibility and integrity of those uses with other established uses:

The proposed apiary registration procedure in the ER district does not affect the City's ability to prescribe reasonable controls and standards for apiaries nor does it affect the ability of the City to ensure compatibility and integrity of apiaries with other uses in the ER district. The proposed "Backyard Beekeeping Administrative Regulations" will educate potential beekeepers in best practices for beekeeping and common sense standards related to siting and maintaining bee hives in single-family neighborhoods. The proposed amendment to LHMC Chapter 7-04 establishes nuisance conditions that could occur. If an issue with a registered hive is identified, nuisance procedures can be initiated and enforcement action can be taken to abate the condition. The proposed registration procedure encourages residents with currently unpermitted apiaries to register with the City, which ensures that the beekeeper is versed in basic best practices for keeping bees and aware of the responsibilities of backyard beekeeping.

3. That the amendment or plan is necessary to provide reasonable property development rights while protecting environmentally sensitive land uses and species:

The proposed registration procedure for apiaries in the ER district encourages local honeybee-keeping, which strengthens the local domesticated honeybee population, which has been in decline for over a decade. This in turn provides benefits for the community, such as a docile bee population and pollination services for local gardens and landscapes as well as benefits to the bee-keeper such as honey production, beeswax production, and recreational enjoyment.

4. That the plan or amendment is necessary to correct discrepancies in standards or policies within the plan area or land use category:

The proposed registration procedure for apiaries does not affect where apiaries are permitted in the City of Laguna Hills. The proposed change modifies the current CUP requirement for apiaries to a registration requirement, making it more accessible for local residents to keep bees which accomplishes goals of sustainability, conservation, as well as providing recreational enjoyment for property owners on their residential property.

5. That the plan or amendment is necessary to protect the general health, safety, or general welfare of the community as a whole:

The proposed registration procedure for apiaries encourages apiary owners or potential apiary owners to register with the City, allowing the City and

beekeeper to review the "Backyard Beekeeping Administrative Regulations" and ensure that they are applied appropriately on the subject property. Continuing to allow apiaries in the ER district also helps protect and preserve the domesticated honeybee population, to ensure pollination for the gardens and landscapes in the area with lower-risk pollinators.

SECTION 4. Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code, Chapter 9-04 (Definitions), Section 9-04.010 ("A" Definitions) is hereby amended to modify and add definitions, as follows:

"Apiary" means a facility for the maintenance of bees. Apiaries, for the purposes of this code, shall refer to up to four hives on private property operated primarily for the non-commercial, private enjoyment of owners or residents of the property on which the apiary is located."

"Backyard Beekeeping Administrative Regulations" means administrative regulations established by the Community Development Director intended to provide guidance, instruction, and operational requirements to avoid nuisance issues arising from improper siting or management of an apiary due to lack of knowledge or neglect. Such regulations are maintained by the Community Development Department and may be amended from time to time by the Community Development Director, as needed."

SECTION 5. Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code, Chapter 9-10 (Zoning Districts Established), Table 9-10.050 (Land Use Matrix) is hereby amended to allow apiaries in the Estate Residential zone as a permitted use, as follows:

**Table 9-10.050
LAND USE MATRIX**

A	Accessory Use
C	Conditional Use
SUP	Special Use Permit
P	Permitted Use
S	Site Development Permit Required
T	Temporary Use
◆	Special Requirements
●	Prohibited Use
U	See Urban Village Specific Plan
L	See Laguna Hills Planned Community Development Plan and Text

Land Use	Zones																	Reference
	Estate Residential (ER)	Low Density Residential (LDR)	Medium Low Density Residential (MLDR)	Medium Density Residential (MDR)	High Density Residential (HDR)	Office Professional (OP)	Village Commercial (VC)	Freeway Commercial (FC)	Community Commercial (CC)	Mixed Use (MXU)	Neighborhood Mixed Use (NMU)	Community/Private Institution (C/PI)	Open Space-1 (OS-1) Parks	Open Space-2 (OS-2) Drainage Facilities	Open Space-3 (OS-3) Landscape Corridors	Planned Community (PC)	Planned Community Residential (PCR)	
Apiary	A	•	•	•	•	•	U	•	•	•	•	•	•	•	•	L	•	See Chapter 9-12

SECTION 6. Title 9 (Zoning and Subdivisions) of the City of Laguna Hills Municipal Code, Chapter 9-12 (ER Estate Residential District), Table 9-12.020 (Estate Residential Uses) is hereby amended to allow apiaries in the Estate Residential zone as a permitted use, as follows:

**Table 9-12.020
ESTATE RESIDENTIAL USES**

Uses	Permitted	Accessory	Reference
Apiary		P	Subject to LHMC 9-12.060

Note: Use is permitted subject to issuance of:

C = Conditional use permit (CUP)

S = Site development permit (SDP)

T = Temporary Use Permit (TUP)

P = Permitted

◆ = Special requirements

SECTION 7. Title 9 (Zoning and Subdivisions) of the City of Laguna Hills Municipal Code, Chapter 9-12 (ER Estate Residential District), is hereby amended to add Section 9-12.060 (Keeping of bees), as follows:

9-12.060 Keeping of bees.

Apiaries, as defined in LHMC 9-04.010, are permitted on single-family residential property within the Estate Residential zoning district subject to the following provisions:

- A. It shall be unlawful for any person to have, keep, or maintain any apiary pursuant to this Code section unless the owner of the apiary first registers the apiary with the City. Apiary registrations are issued by the Community Development Director. Registrations must be renewed annually. New registrations shall be accompanied by the Apiary Registration Fee, established by Resolution of the City Council. Any registration can be revoked by the Community Development Director when an apiary owner fails to maintain the apiary in accordance with the property maintenance standards related to apiaries contained in Chapter 9-74.
- B. The notification of all property owners and tenants of abutting properties is required prior to the issuance of any new apiary registration. The City shall mail the notice and shall issue the registration 10 days following such notice, unless, pursuant to LHMC 9-74.050(S)(8), a resident of an abutting property presents evidence of a medically-certified severe allergy (Anaphylaxis) to the sting of honey bees.
- C. All apiaries shall be maintained in accordance with the Backyard Beekeeping Administrative Regulations. The Backyard Beekeeping Administrative Regulations are administrative regulations established by the Community Development Director intended to provide guidance, instruction, and operational requirements to avoid nuisance issues arising from improper siting or management of an apiary due to lack of knowledge or neglect.

SECTION 8. Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code, Chapter 9-74 (Property Maintenance), Section 9-74.020 (Definitions) is hereby amended to add definitions, as follows:

"Backyard Beekeeping Administrative Regulations' means administrative regulations established by the Community Development Director intended to provide guidance, instruction, and operational requirements to avoid nuisance issues arising from improper siting or management of an apiary due to lack of knowledge or neglect. Such regulations are maintained by the Community Development Department and may be amended from time to time by the Community Development Director, as needed."

"Bee' means any stage of the common domestic honeybee (*Apis Mellifera*)."

"Hive' means a structure for housing a bee colony."

"Requeen" means to replace the queen bee in a colony with a new queen. This is usually done to prevent swarming (in the case of older queens) and/or if Africanization of the colony is suspected."

SECTION 9. Title 9 (Zoning and Subdivisions) of the Laguna Hills Municipal Code, Chapter 9-74 (Property Maintenance), Section 9-74.050 (Property maintenance standards) is hereby amended to add property maintenance standards related to apiaries, as follows:

LHMC 9-74.050 Property maintenance standards.

S. Apiaries. The keeping of bees or hives in a manner that through action or inaction allows for any of the following conditions to occur is prohibited:

1. Apiaries in zoning districts in which "apiary" is not a permitted use.
2. Apiaries which are not registered with the Community Development Department of the City.
3. Bees that exhibit defensive or objectionable behavior or interfere with the normal use of neighboring properties.
4. Bees that swarm due to failure to requeen or without response to contain or relocate such bees within three days.
5. Bees that swarm without response to contain or relocate within 24 hours.
6. Apiaries that do not conform to the Backyard Beekeeping Administrative Regulations.
7. Hive abandonment by resident bees or by the owner.
8. A complaint is received from a person residing on an abutting property with proof of a medically-certified severe allergy (Anaphylaxis) to the sting of honey bees within 10 days of notice from the City that an applicant intends to keep bees on the property.
9. Apiaries that consist of more than four hives on private property.
10. Apiaries on private property that are maintained and operated for primarily commercial purposes.

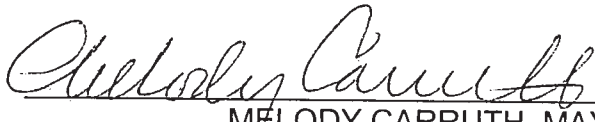
SECTION 10. This Ordinance shall take effect on July 27, 2018, the 31st day following the adoption of this Ordinance by the City Council.

SECTION 11. Upon the effective date of this Ordinance, the provisions hereof shall supersede any inconsistent or conflicting provisions of the Laguna Hills Municipal Code.

SECTION 12. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 13. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this 26th day of June 2018.


MELODY CARRUTH, MAYOR

ATTEST:


MELISSA AU-YEUNG, CITY CLERK

Attachment: Attachment 1 - Ordinance 2018-3 (ZTA-8-17-3966) (1736 : Apiary Registration Fee)

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 2018-3 was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the 12th day of June 2018, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the 26th day of June 2018, by the following vote, to wit:

AYES: Council Members Heft, Kogerman, Sedgwick, Mayor Pro Tempore Gilbert, and Mayor Carruth

NOES None

ABSENT: None

ABSTAIN: None

(SEAL)



MELISSA AU-YEUNG, CITY CLERK
Laguna Hills, California

Attachment: Attachment 1 - Ordinance 2018-3 (ZTA-8-17-3966) (1736 : Apiary Registration Fee)

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) ss
 CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
 AND PUBLICATION

MELISSA AU-YEUNG, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. 2018-3, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADOPTING ZONE TEXT AMENDMENT NO. 8-17-3966, AN AMENDMENT TO TITLE 9 (ZONING AND SUBDIVISIONS) OF THE LAGUNA HILLS MUNICIPAL CODE, MODIFYING CHAPTERS 9-04 (DEFINITIONS), 9-10 (ZONING DISTRICTS ESTABLISHED), 9-12 (ESTATE RESIDENTIAL DISTRICT), AND 9-74 (PROPERTY MAINTENANCE) TO ALLOW APIARIES AS A PERMITTED USE IN THE ESTATE RESIDENTIAL DISTRICT SUBJECT TO CERTAIN PROVISIONS AND TO ADD PROPERTY MAINTENANCE STANDARDS RELATED TO APIARIES

on the 15th day of June 2018, was published in summary in the Orange County Register; and on the 5th day of July 2018 was published in summary in the Saddleback Valley News, and was, in compliance with City Resolution No. 2004-05-25-2, on the 15th day of June 2018, and on the 29th day of June 2018, caused to be posted in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
 Laguna Hills Community Center
 Courtyard at La Paz Center



MELISSA AU-YEUNG, CITY CLERK
 Laguna Hills, California

Attachment: Attachment 1 - Ordinance 2018-3 (ZTA-8-17-3966) (1736 : Apiary Registration Fee)

Attachment 2

Draft Resolution & Exhibit A



RESOLUTION NO. 2018-11-27-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ESTABLISHING A NEW APIARY REGISTRATION FEE

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, pursuant to the provisions of the California Constitution and the laws of the State of California, the City of Laguna Hills is authorized to adopt and implement fees, rates, and charges for municipal services; provided that such fees, rates, and charges do not exceed the estimated reasonable cost of providing such services; and,

WHEREAS, on June 12, 2018, the City Council adopted Ordinance 2018-3, which modified permitting procedures to allow apiaries on certain private properties in the Estate Residential zoning district subject to an apiary registration; and,

WHEREAS, the City now desires to establish a user and regulatory fee for administration of the apiary registration procedure; and,

WHEREAS, the City calculated the costs reasonably borne in the administration of the apiary registration procedure; and

WHEREAS, pursuant to Government Code Sections 66014, 66017, and 66018, the new user fees to be charged must be adopted by resolution, following notice and public hearing; and

WHEREAS, notice of Public Hearing has been given pursuant to Government Code Section 6062a, oral and written presentations have been made and received, and the required Public Hearing has been held; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. Adoption of Recitals. The foregoing recitals set forth above are true and correct and are incorporated by reference herein.

SECTION 2. Adoption of Proposed Apiary Registration Fee. In order to establish a fee for the new apiary registration program, the City Council hereby adopts and approves the Apiary Registration Fee as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference. The City Clerk is authorized and directed to incorporate the new Apiary Registration Fee as established and set forth in Exhibit "A",

attached hereto, into the 2018 Comprehensive Fee Schedule. The City Council hereby finds and determines that the user fees and charges established herein do not exceed the estimated reasonable cost of providing the service and regulatory program for which the fee is levied.

SECTION 3. Effective Date. The user fees and charges established pursuant to this Resolution shall take effect and shall be implemented 60-days following the adoption of this Resolution.

SECTION 4. Environmental Exemption. The adoption of this Resolution is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15273 of CEQA Guidelines and Section 21080(b)(8) of the Public Resources Code; and in accordance with such determination, the City Clerk is hereby directed to file a Notice of Exemption upon adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 27th day of November 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2018-11-13-x adopted by the City Council of the City of Laguna Hills, California, at a
Regular Meeting thereof held on the 27th day of November 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Community Development/Planning

Fee Group	Title	Unit	Time Survey - Cost Build Up (in minutes)		Program Cost (Adds to Times)	Full Cost	Current Fee	Cost Recovery Level (%)	Suggested Fee	Percent Change
			CD: Asst. Planner	CD: Receptionist/Secretary						
			\$143.75	\$129.10						
Miscellaneous Fees	Apiary Registration	Fee	0.5 hrs	0.08 hrs	\$5 for mailing	\$87.19	-	57%	\$ 50.00	N/A



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018

TO: Mayor and Council Members

FROM: Gregory E. Simonian
City Attorney

ISSUE: Proposed Resolution Ratifying Changes to the Compensation of the City Manager, an Unrepresented Employee, in Accordance with Government Code Section 36506

RECOMMENDATION: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, Ratifying Changes to the Compensation of the City Manager, an Unrepresented Employee, in accordance with Government Code Section 36506."

SUMMARY:

Following completion of the annual performance evaluation of the City Manager during Closed Session on November 13, 2018, the City Council reconvened in Open Session and unanimously voted to approve certain changes to the salary and compensation of the City Manager. The attached Resolution ratifies the minute action taken by the City Council during the November 13, 2018 meeting. The City Attorney will provide a brief oral report regarding the proposed resolution, in accordance with State law.

BACKGROUND:

Pursuant to Government Code Section 54957(b)(1), the City Council convened in Closed Session on October 9, 2018 and November 13, 2018, for the purpose of conducting the annual performance evaluation of the City Manager in accordance with Section 4 of the City Manager Employment Agreement ("Employment Agreement") dated February 3, 2018. Section 5(B) of the Employment Agreement provides that increases in the City Manager's compensation may be effective at any time at the sole discretion of

Resolution Ratifying Changes to Compensation by City Manager

November 27, 2018

Page 2

the City Council. Section 5(B) of the Employment Agreement further provides that changes in compensation approved by the City Council do not require an amendment to the agreement to be effective, and any changes in the City Manager's compensation may be made by minute action approved by the City Council and ratified by Resolution.

Following completion of the City Manager's annual performance evaluation during Closed Session at the regularly scheduled City Council meeting held on November 13, 2108, the City Council reconvened in Open Session and by minute action unanimously voted to approve certain changes to the City Manager's compensation, as follows: (1) In addition to the Employee Benefits and Leaves of Absence authorized pursuant to Section 6 of the Employment Agreement, the City Manager is awarded, on a one-time basis only for Fiscal Year 2018/19, eight (8) days of paid executive leave, effective November 1, 2018; and, (2) Directed the City Attorney to return with a ratifying Resolution for approval by the City Council at its next regularly scheduled meeting to be held on November 27, 2018.

Pursuant to the terms of the Employment Agreement, and pursuant to Government Code Section 36506, the proposed Resolution (**Attachment "A"**) ratifies the action taken by the City Council on November 13, 2018, to change the compensation of the City Manager. The changes to compensation established pursuant to the proposed Resolution will take effect immediately and will be implemented upon adoption of the Resolution.

ATTACHMENTS:

- Attachment A - Proposed Resolution

RESOLUTION NO. 2018-11-27-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RATIFYING CHANGES TO THE COMPENSATION OF THE CITY MANAGER, AN UNREPRESENTED EMPLOYEE, IN ACCORDANCE WITH GOVERNMENT CODE SECTION 36506

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, pursuant to Government Code Section 54957(b)(1), the City Council convened in closed session on October 9, 2018 and November 13, 2018, for the purpose of conducting the annual performance evaluation of the City Manager, an unrepresented employee, in accordance with Section 4 of the City Manager Employment Agreement ("Employment Agreement") dated February 3, 2018; and

WHEREAS, Section 5(B) of the Employment Agreement provides that increases in the City Manager's compensation may be effective at any time in the sole discretion of the City Council; and

WHEREAS, Section 5(B) of the Employment Agreement further provides that changes in compensation approved by the City Council do not require amendment to the contract to be effective, and any changes in the City Manager's compensation may be made by minute action approved by the City Council and ratified by resolution; and

WHEREAS, following completion of the City Manager's annual performance evaluation during closed session at the regularly scheduled City Council meeting held on November 13, 2018, the City Council reconvened in open session and by minute action unanimously voted to approve certain changes to the City Manager's compensation and directed the City Attorney to return with a ratifying resolution for approval by the City Council at its next regularly scheduled meeting to be held on November 27, 2018; and

WHEREAS, pursuant to the terms of the Employment Agreement, and pursuant to Government Code Section 36506, the City Council hereby ratifies the action taken on November 13, 2018, to change the compensation of the City Manager.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. Adoption of Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. Approval of Changes to Compensation. In addition to the Employee Benefits and Leaves of Absence authorized pursuant to Section 6 of the Employment Agreement, the City Manager is hereby awarded, on a one-time basis only for Fiscal Year 2018/19, eight (8) days of paid executive leave, effective November 1, 2018.

SECTION 3. Effective Date. The changes to compensation established pursuant to this Resolution shall take effect immediately and shall be implemented upon adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 27th day of November 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2018-11-27-x adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 27th day of November 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: November 27, 2018
TO: Mayor/Chair and Council/Agency Members
FROM: Donald J. White
City Manager
ISSUE: Association of California Cities - Orange County

RECOMMENDATION: That the City Council discuss the City's membership in the Association of California Cities-Orange County.

SUMMARY:

Pursuant to City Council Policy No. 120, at the November 13, 2018, City Council meeting, Mayor Carruth requested under Council comments that an item be placed on the November 27, 2018, Agenda to discuss the City's membership in the Association of California Cities – Orange County (ACC-OC). Mayor Pro Tempore Gilbert concurred.

The ACC-OC is a 501(c) (3) organization that was established in 2011 to represent and advocate for Orange County cities on regional public policy issues. Currently, the ACC-OC is supporting regional public policy issues through multiple policy committees and task forces focused on infrastructure and technology, residential recovery reform, local government finance, economic development, and homelessness. In addition, the ACC-OC hosts a Legislative and Regulatory Committee that undertakes the task of reviewing, analyzing, and making recommendations on regional, state, and federal legislation and regulatory matters.

At present, the ACC-OC membership consists of the following 26 cities in Orange County: Aliso Viejo, Anaheim, Buena Park, Costa Mesa, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, Irvine, La Habra, Laguna Beach, Laguna Hills, Laguna Niguel, Lake Forest, Los Alamitos, Mission Viejo, Newport Beach, Orange, Placentia, San Clemente, San Juan Capistrano, Stanton, Tustin, Villa Park, Westminster, and Yorba

Association of California Cities - Orange County

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Linda. The Cities of Brea, Cypress, Dana Point, La Palma, Laguna Woods, Rancho Santa Margarita, Seal Beach, and Santa Ana are not members of the Association.

The City of Laguna Hills has been a member of ACC-OC since the organization was established in 2011. Over the years, numerous members of the Laguna Hills City Council have served on the ACC-OC Board of Directors and other policy committees. Currently, Council Member Heft is the 5th District Representative on the ACC-OC Board of Directors and holds a voting position on the Legislative and Regulatory Committee.

Each year that the City of Laguna Hills has been a member of ACC-OC, it has paid membership dues in an amount equal to \$5,000 plus a population-based fee determined by the Association. The table below details the City's history related to ACC-OC membership dues.

Year	Membership Dues
2011	\$9,981.25
2012	\$9,981.25
2013	\$9,981.25
2014	\$9,981.25
2015	\$9,981.00
2016	\$9,981.25
2017	\$9,261.68
2018	\$9,539.53